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In the Supreme Court of the United States

May Term 2001

C. DELORES TUCKER and WILLIAM TUCKER, her husband,

Petitioners

vs.

RICHARD FISCHBEIN; TIME, INC.; BELINDA LUSCOMBE; NEWSWEEK MAGAZINE, and JOHNNIE ROBERTS,

Respondents

APPENDIX

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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MR. BAINE: Now you're—

Q. Go ahead. Do you remember without looking at the notes, do you remember?

A. The specific question?

Q. Yes.

MR. BAINE: You know you're doing this in a very artificial way, Rich, and you're not allowing him his recollection of the conversation.

MR. ANGINO: I'm asking for a conversation. This is so critical to your case, what the person remembers is important along with what is said here.

Q. Was that the first thing that you talked about after the discussion as to constitutionality, the second—

A. I never talked.

MR. DAVID: Objection.

A. I never talked about constitutionality.

Q. I'll withdraw that.

Did you not bring up the sexual angle to the lawsuit involving Tucker?

MR. BAINE: Objection to the form of the question.

A. At some point in our conversation I brought up the question of sex in the lawsuit at some point.

Q. Did I ask you if you had a copy of the Complaint in front of you? Did I ask you that specific question?

A. Yes, I think I did.

Q. Did I ask you to get it out?

A. Maybe. I don't remember.

Q. Did you have the Complaint in front of you?

A. Yes, I had the Complaint there.

Q. Did I tell you to look at how many paragraphs there were in the Complaint?

A. I don't know if it was that specific question.

Q. Do you recall my asking you how many paragraphs there were in the Complaint?

A. I don't remember that as a specific question. What I remember you doing is saying that there was more than the paragraph dealing with sex in the story.

Q. Did I tell you, "You have the Complaint in front of you and

there are 66 paragraphs"; did I not say that?

A. I don't remember that you said that there were 66 paragraphs.

Q. Did I say that the only paragraph that could be misinterpreted to involve sex was Paragraph 50; did I not say that?

A. I don't remember you saying that the only one could be and the operative word is "misinterpreted". I don't remember you saying that, no.

Q. Did I tell you, "Look at Paragraph 50", did I tell you, "Look at Paragraph 50"?

A. Perhaps you did.

Q. Did I ask you to read the words on Paragraph 50?

A. Maybe you did, I don't remember.

Q. Did I tell you to look at the three preceding paragraphs, 47, 48 and 49?

A. Maybe you did. I don't remember you asking me that though.

Q. Did I point out that Delores Tucker explains what her claims

are in paragraphs 47, 48 and 49?

A. I don't remember, maybe you did, but I don't remember you specifically pointing that out.

Q. Did I tell you with regard to Paragraph 50 that—

A. Let me—

Q. Did I tell you to look specifically at Paragraph 50?

A. Maybe you did.

Q. Did I read it to you over the phone, "Plaintiff's husband, William Tucker, has, as a result of his wife's injuries, suffered the loss of advice, companionship and consortium"?

A. I don't remember you reading it to me, no.

Q. Did I give you a definition of "consortium"?

A. We talked about that paragraph, yes. We talked about that paragraph. Did you give me a precise definition? You described what you thought that paragraph meant, that specific word I don't remem-

ber you defining it for me.

Q. Did I tell you that the media was misrepresenting, blowing out of proportion Paragraph 50?

A. That the media was blowing out of proportion?

Q. Paragraph 50.

MR. BAINE: You're not asking whether you used those exact words, but conveyed that idea to him?

MR. ANGINO: Yes.

Q. Misrepresentation?

A. No, I don't remember that word coming from you in that conversation. I don't remember that word, using that word, no.

Q. Eliminate the word "misrepresentation". Do you remember my saying that, "The media is blowing out of proportion Paragraph 50"?

A. I don't remember those words, that the media was blowing it out of proportion.

Q. Did I make it clear to you that this case had nothing to do with sex?

A. No.

Q. Did I make it clear to you that there's something called a marital union consistent of a husband and wife?

MR. BAINE: Objection to the form of the question, because that's not real clear.

A. I don't know.

Q. Look, what you have here, there is one count that you've marked down here, there is one count of loss, you call it companionship, when I have used the word "consortium"?

A. No.

Q. I used companionship, I said, "I'm a lawyer", I said, "There is one count of loss of companionship"?

A Yes.

Q. So you're saying I told you there's one count of loss of companionship?

A. That's what I'm saying, yes.

Q. It's ignoring the other counts; is that what I said?

A. Yes.

Q. We are talking about all of this affecting Tucker singular; is that right?

A. Yes.

Q. If someone affects you physically, mentally, they've affected the family union; is that right?

A. Correct.

Q. "In most litigation there is—", now you've left out, did I not say, "In most litigation there is a count for loss of consortium", is that not what is there, you've left it out, "In most litigation"?

MR. BAINE: If you're going to keep doing this you're never going to get an answer.

Q. Does it say, "In most litigation there is", and then three dots?

A. You may have well used the word "consortium".

Q. In most litigation there is a count for loss of consortium. Would you accept that that's what I said?

A. What I'm saying is that you may in fact have used that word, I don't remember.

Q. Did I describe that most automobile accidents have such counts and many other suits have that count?

A. You may have.

Q. And I went through a discussion about the fact that every such lawsuit has such an account?

A. No, I don't think it was that sweeping.

Q. You wrote "most litigation", that's what you recorded; right?

A. Yes.

Q. And I discussed the elements that could be included; is that right?.

A. Yes.

Q. It went on to say, "There's somewhere it can include sex"; is that right?

A. I have, "It can include sex."

Q. But I told you this one did not; did I not?

A. No, you didn't.

Q. I went on to say, "It's probably one of the less", and I would have least, you have less significant. Did I say, "One of the least

significant"?

MR. BAINE: Object to the form of the question. You just testified in the middle of that one.

MR. DAVID: He's testifying in all of his questions.

A I have it recorded as less.

Q. And you'll stand by that being my word?

A. Yes.

Q. And companionship as being my word?

A. Yes.

Q. "It's probably the less significant aspect in relations", is that what you have recorded here?

A. Yes.

Q. Was it not actually told to you that that is one of the least significant parts of the word "consortium"?

A. No.

MR. BAINE: Is there a difference between least significant and the less significant?

MR. ANGINO: Whatever.

Q. Now when you have space there, what does that mean?

MR. BAINE: You mean space before the next line, "11 days of depositions"?

MR. ANGINO: Right.

Q. It seems like it's going from one thing to a totally different subject. Is that—

A. What it seems to reflect here, or I'm typing so I may have hit the return bar.

Q. How did your conversation with me happen to go from sex to 11 days of deposition?

A. I think you started to talk about what Mrs. Tucker had endured in all of this litigation, not over some period of time.

Q. Did I not call your attention to the other parts of the Complaint which described what she went through?

A. You sure did.

Q. Did I say, "Look at the Complaint", and I'm specifically

referring to what you had in front of you, what you have in front of you, a factual description of what happened to Mrs. Tucker; is that not correct?

MR. BAINE: What's the question?

Q. You've got a Complaint; right?

A. Yes.

Q. You were reporting about a lawsuit; is that right?

A. Correct.

Q. And that lawsuit starts out by describing the parties; does it not?

A. Yes.

Q. Starting at Line 23.

MR. BAINE: Paragraph 23.

Q. Paragraph 23, there is a description of, "Plaintiff, C. Delores Tucker, leader of a group of religious and law abiding citizens in which she did campaign—", is that lobby, "—campaigned, marched"; is that what it says?

A. Marched, lobbied and campaigned, yes.

Q. Then it goes on to talk about what gangsta rap is; is that right?

MR. BAINE: I object to the form of these questions. The documents speaks for itself. If you want the witness to review it, he can do that.

Q. Is that right?

A. What?

Q. Is that what the next paragraph says?

MR. BAINE: Object to the form of the question.

Q. It talks about what gangsta rap is?

A. Talks about gangsta rap.

Q. Does it talk about Leiberman and Powell and Doe?

A. Where?

MR. BAINE: Does the Complaint talk about those individuals?

MR. ANGINO: Paragraph 17.

MR. BAINE: Seventeen?

MR. ANGINO: 27, I'm sorry.

A. Those persons are mentioned here.

Q. Do you recall as part of our conversation that I mentioned those names?

A. I remember you asserting that prominent persons would—

Q. Be witnesses in this case?

A. Yes.

Q. Including Tipper Gore?

A. I specifically remember Tipper Gore and probably Bennett who had been an ally of hers in this whole campaign.

Q. Did you indicate in the inflection of your voice doubt that these witnesses would be witnesses in this case?

MR. DAVID: Object to the form.

A. No, I did not.

Q. Did you question whether these people would, in fact, be witnesses?

A. I did in fact ask whether Ms. Tucker or you had in fact enlisted Ms. Gore. I didn't ask that with respect to Mr. Bennett because Mr. Bennett had been previously allied with Mrs. Tucker. I had no idea that Mrs. Gore had, so I inquired as to whether you had actually engaged her.

Q. Was your wording, "Do you really expect that Tipper Gore

will testify", were those your words?

A. No. I don't remember those being my words.

Q. Did we discuss Paragraph 38, the lawsuit in California?

A. I don't know that we specifically discussed 38. We discussed all manner of litigation involving Mrs. Tucker in this whole campaign.

Q. Did I tell you, "You're focusing on sex, but look at the Complaint. They brought this lawsuit, they brought these two lawsuits in California"? Did I not tell you they brought those lawsuits in California?

MR. BAINE: Objection to the form of the question. You said a lot of things in that question then you summed it up by only talking about some part of it.

Q. Was part of your discussion with me the subject of Paragraph 38, the California lawsuits?

A. We talked about—

Q. The California lawsuits?

A. We talked about litigation. Quite frankly I don't remember where all of the litigation had been filed, whether it was California, but we talked about litigation concerning these various—the music industry and Mrs. Tucker with respect to gangsta rap.

Q. Did we discuss that in those California actions they put her through 11 days of deposition?

A. Correct.

Q. Did I tell you when you're focusing on sex, "Why don't you look at the Complaint and see what she's been through?"

MR. BAINE: Objection to the form of the question. Again, are you asking whether you used those words.

MR. ANGINO: Along those lines.

A. I don't know the specific words.

MR. BAINE: I object to the form of the question.

You can answer.

A. I don't know the specific words that you used. You did make

it clear that there were other things in the lawsuit that I should look at.

Q. That were important, is that right?

MR. BAINE: You know, you're cutting him off.

A. That were involved in the lawsuit.

Q. Did I tell you, "You should look at the fact that she feared for her life", did I tell you that?

A. I think so.

Q. Did I tell you that, "She had been ridiculed in front of her own people, you should look at that"?

A. I don't know about those specific words, but generally you talked about what she had endured.

Q. I go on to tell you the fact that she'd actually had to have medical care and attention?

A. I don't remember that. I had read the lawsuit so I was aware that it was certainly in the lawsuit.

Q. In fact in the lawsuit Paragraph 47 says she's incurred

medical expenses; is that right?

A. Yes, hold on, let me take a look. What paragraph?

Q. Forty-seven.

A. Yes.

Q. "Undergone mental pain, suffering and inconvenience"?

A. That's all here.

Q. "Loss of life's pleasures, fears for her life, lost her personal freedom to travel freely where and when she desires", did I say all of that was in there?

A. I don't remember you saying that all was in there. I remember you saying there were all of these other things in the lawsuit and I read the lawsuit and if those were the things you meant I was aware that they were here.

Q. You read the Complaint, you knew what was there; is that right?

MR. WILLIAMS: There's two questions.

Q. You read the lawsuit; is that right, the Complaint, you read

the Complaint?

A. Yes.

Q. So you knew what the Complaint said, all right?

A. I read the lawsuit, yes.

Q. Did you see the word "sex" anywhere in that Complaint?

A. No. I don't think it's in there.

Q. Did you see anything in that Complaint saying that Mr. or Mrs. Tucker could not have sex?

A. I saw something in there that I interpreted meant that, yes.

Q. You interpreted it, but did you see any words that said that Mr. or Mrs. or together they were unable to have sex?

MR. BAINE: Objection to the form of the question. He's answered that very clearly. He said the word "sex" did not appear, but he did see language that he understood to mean that.

That's what he said.

Q. Did you use the words "interpreted language", is that what you used?

MR. BAINE: The record will speak for itself.

MR. ANGINO: I want to go back and see if he used the word "interpreted".

(Record read)

Q. So that despite our conversation, you focused on a word or words that you interpreted as meaning sex?

MR. BAINE: Objection to the form of the question.

MR. DAVID: Objection.

MR. BAINE: That is a mischaracterization of the witness' account of your conversation with him.

It's an unfair question.

Q. You have 20 lines of our conversation, is that right here?

A. I think I remember counting 10 on one page and 10 on the other.

Q. With regard to the discussion of the California lawsuits you've recorded, "11 days of depositions and national investigative firm", did I tell you they hired this national investigative firm, went

through her whole history? Did I tell you all of that?

A. I don't know how much elaboration you provided, but you did indicate that they'd hired somebody to look into, investigate her.

Q. And looked at her background, did I not say that?

A. You may or may not have said that. I don't remember.

Q. You were the one that chose what to write and what not to write; is that right?

A. Yes.

Q. And you have, "11 days of deposition, a national investigative firm", what do you mean by "gangsta background"?

A. That there were assertions that some of the people on the other side associated with Death Row who had questionable backgrounds.

Q. Did I not even go into talking about Shug Knight and Kenner?

A. You may have well talked about Shug Knight and Mr. Kenner.

Q. Did I not say she feared for her life because of their

background?

A. You indicated she feared for her life.

Q. Did I not tell you that that was one of the reasons for the lawsuit?

A. Yes.

Q. "These are the kind of units on the other side", do you think I use, "These are the kind of units", are you quoting me?

A. Units look like it may be a typo of some sort.

Q. Typo for what?

A. What the word is?

Q. Yes.

A. I don't know.

Q. What does it mean?

A. I think you were indicating these are the kind of people you were dealing with on the other side.

Q. Why she should be fearful for her life?

A. Yes.

Q. What does the word "music" mean?

A. I don't even known what music is.

Q. Did we not discuss that the music advocates violence, gangsta rap music advocates violence?

A. I remember you talking about gangsta rap music being violent music.

Q. And it's against women and they call them ho's, did we not discuss those things?

A. Yes.

Q. "How would you like if somebody called your wife a ho?"

A. I don't remember that.

Q. You don't remember that?

A. I don't remember that.

Q. "How would you feel if you were Mr. Tucker and this is what she was called by Tupac", was there any discussion about any of that?

A. Again, I can answer that only in a general way. You talked about in general the strains, the stresses, everything that you were alleging your clients had gone through as a result of this whole gangsta rap campaign.

Q. You say you don't recall it.

What is the next line?

A. I don't recall what I said, I didn't recall what.

Q. Saying, "This is your wife", what is your next line?

A. Where?

Q. "Called Mrs. Tucker", and you have a MF. And this is your wife?

A. I don't know that you were referring to my wife. I thought you were referring to that here's this guy and this has been said about his wife.

Q. And I said, "What if that was your wife", and this is your wife, that is what—

MR. BAINE: Wait a second. There's no question pending and, Richard, you're just testifying and you're not even asking questions anymore.

Q. Did you record, "And this is your wife"?

A. Yes, right here.

Q. What was the basis for recording, "And this is your wife"?

MR. BAINE: Other than the fact that you said it? I'm confused by that.

Q. What was it in the conversation that got you to write down, "And this is your wife", tell me what you remember.

MR. BAINE: Objection. That's a hard question to understand.

You can answer if you want to.

Q. I'm just asking what do you remember from, "Call Ms. Tucker" and "MF" and, "This is your wife", do you agree that that is probably—do you agree that's true you wrote "Called Mrs. Tucker" a, not and, do you agree?

A. Called Mrs. Tucker and MF.

Q. Do you say it's A or and?

MR. BAINE: Objection. An MF. You wouldn't say a MF, you'd say an MF.

MR. ANGINO: I thought you use an when the next word is a vowel.

MR. BAINE: When you called—would you say a MF? I think you would say an MF; wouldn't you?

MR. ANGINO: Not in my study of English.

MR. BAINE: Say it out loud. Say the whole thing.

MR. ANGINO: He called someone a MF.

MR. BAINE: I'm curious. An MF sounds right.

Q. What did that mean?

A. You said to me that she had endured all of this stress and however you want to characterize it that she had gone through a lot and Mr. Tucker, as a result of his wife having gone through all of this, also suffered some kind of consequences.

Q. Some damages or expenses, I'll accept consequences.

MR. DAVID: Objection.

MR. BAINE: I think he's in the middle of an answer.

A. So he called her all of this, he's affected—and how would he feel if this is your wife, meaning Mrs. Tucker, being Mr. Tucker's wife, not someone calling my wife this.

Q. I didn't ask you, are you saying I did not ask you to consider it being your wife?

A. You didn't personalize this to me, no. I don't remember you personalizing this to me in any way, shape or form.

Q. Did I in any way, shape or form say that what happened here affected their sex life? Did I say that?

A. What you said to me on that is that as I have recorded it here.

Q. Where?

A. That first paragraph, "If someone affects you physically, mentally, et cetera, they've affected the family union."

Q. That's what I said?

A. That's not all you said.

Q. Did I say sex?

A. Did you ever use the word "sex"?

Q. Did I ever use the word "sex"?

A Yes.

Q. What did I say?

A. You said it can include sex.

Q. The words, "Can include sex"?

MR. DAVID: Now you're arguing with the witness.

MR. BAINE: That's not a question.

Q. Did I tell you, "The word consortium can include sex"?

A. Yes.

Q. Did I tell you that it included sex in this case?

A. What you said is you didn't say it didn't include sex, you said it can include sex.

Q. Did I say whether it involved sex in this case?

A. Well, based on what you said here, yes.

Q. Did I say that Mr. Tucker was not able to have sex?

A. Did you specifically say that he was unable to have sex?

MR. BAINE: In those words?

MR. ANGINO: Those words.

A. I don't remember you saying that specifically, no.

Q. Did I say Mrs. Tucker was not able to have sex?

A. I don't remember you saying that, no.

Q. Did I tell you that their sexual life had changed?

MR. BAINE: Again you're asking whether you used these exact words?

MR. ANGINO: Yes.

Q. Did I say that their sexual—

A. You didn't use those specific words.

Q. Did I say that their sexual life has diminished?

A. Those specific words, no.

Q. Did the word "sex" with regard specifically to Mr. and Mrs. Tucker ever come out of my mouth?

A. In the context, yes.

Q. Were the words, "Not that sex is not involved in this case"?

A. No way, no way.

Q. What did the words, "That's what's called a defense tactic",

mean as you look at it?

A. I told you that I had had my conversation, I'd previously interviewed Mr. Fischbein and that he had indicated that one of the counts in there—

MR. ANGINO: This is the crux of the case.

Q. Go ahead.

MR. BAINE: Then let him finish the answer.

Q. Finish the answer.

A That one of the counts involved sex.

Q. Did I say, "That's what is called a defense tactic"?

A. You said that is called, it is a defense tactic to pull out of a broad lawsuit one thing and focus on that one thing. That that is a defense tactic, yes, you said that.

Q. Did I not use the words, "That is Fischbein's spin"?

A. I don't remember, but maybe you did.

Q. That it was improper?

MR. BAINE: Are you asking whether you used the word..

Q. Whether I used the word "improper". Did I not tell you that that's called a defense tactic?

A. That's what I recorded, yes.

Q. And what does that mean to you, that it was true?

MR. BAINE: What was true?

Q. That this suit involved sex, that's what Fischbein said to you; is that right?

A. He just explained to you what the defense tactic was, you can read it back if you want.

Q. What is the defense tactic?

A. Well, you said that for the lawyer to single out one single element of a broad suit and focus on that to the exclusion of the rest is called a defense tactic.

Q Right?

A. That's correct. That's what you said to me.

Q. Are we talking about a word?

MR. BAINE: Objection to the form. It's an incomprehensible question.

Q. Are we talking about a word?

MR. BAINE: I don't understand the question and I'm entitled to understand the question.

Q. Do you understand what the word "consortium" means?

A. Do I understand it?

Q. Yes.

A. Yes.

Q. Somewhere we should have here Black's Law Dictionary. Can you remember now whether we discussed definitions from the dictionary?

A. No.

Q. In the conversation that you had with Mr. Roberts now, you're asking whether he remembers you discussed dictionary definitions of consortium?

A. No, no. I don't remember that we discussed dictionary definitions.

Q. Did you look at Black's definition of consortium?

A. Did I?

Q. Yes.

A. No.

Q. So that in preparing—

MR. DAVID: Can I have the question and answer read back?

MR. ANGINO: He did not look at Black's definition.

MR. DAVID: Thank you.

Q. So whatever Black said—

A. Hold on one second. Did I look at it when?

Q. When you were preparing this story.

A. When I was preparing the story, no.

Q. Did you know what the word "consortium" meant?

A. Yes.

Q. What did you know it to mean?

A. A relationship is between couples, that covered a broad range of interactions between those couples from the inane to the

most intimate.

MR. DAVID: I'm sorry?

A. Meaning sexual relations.

Q. As an example you knew from the days when you were covering the court beat up until the time when you wrote this particular story that the word "consortium" could include a variety of different things; is that right?

MR. BAINE: Objection to the form of the question.

Q. Is that correct?

A. That it covered a gamut of relationships between a couple, between two members of a couple.

Q. You understood that; right?

A. Yes.

Q. For instance, are you married?

A. No.

Q. Let's assume that there is a husband and wife and the wife is injured in an automobile accident and she's unable to cook for her husband, would you consider that that might be one of the elements

of a loss of consortium count?

A. Specifically the cooking?

Q. Ability to cook for the husband.

A. If she had lost that in an accident?

Q. Yes.

A. Yes.

Q. Let's say she's unable to clean, would you consider that another possible part of consortium?

A. Yes.

Q. Are these some of the inane things that you're referring to?

A. Well, they would be to me, I mean I wouldn't—

Q. But you understand those could be parts of the loss of consortium; right?

A. Yes.

Q. You understand that a part of a relationship between husband and wife is companionship; is that right?

A. Yes. You mentioned it in here.

Q. Sure. So that if someone is unable to have the companion-

ship of a spouse would you think that could be part of a relationship?

A. Specifically that they lost companionship?

Q. Do you think the word "consortium" includes companionship?

A. Would it include, the operative word being "include"?

Q. Yes.

A. Yes.

Q. Society. Do you think that's also included in the word "consortium"?

MR. BAINE: Society being different from companionship?

MR. ANGINO: Yes.

A. Society? You lost me there.

Q. I'm going to read for the record and then ask you some questions. Black has consortium. "Conjugal fellowship of husband and wife and the right of each to the company, society, cooperation, affection, and aid of the other in every conjugal relation."

Do you see that?

A. Yes.

Q. So would you understand that each of those potentially is part of a consortium count?

A. Yes.

Q. Then it cites a case, you've seen various court documents where certain things are said and then there's a certain cite for that, have you not, in your years?

A. Citations.

Q. You know what they are?

A. Yes.

Q. So that you understand that this case of Roseberry versus Starkovich probably has language like that in it; is that right?

MR. DAVID: Objection.

A. You mean do I know that now looking at that?

Q. I'm saying from what you know about the way lawyers write, this is what they call citations where they reference something for saying something?

A. Yes.

Q. And it goes on to say, "Loss of, quote, consortium, quote,

consists of severing elements encompassing not only material services", what do you think "material services" are?

A. I mean, doing things.

Q. Cooking for somebody, cleaning for somebody, taking out the garbage, mowing the lawn, things like that?

A. Yes.

Q. Painting a house, helping you get your clothes, washing your clothes; are those material things?

A. Some of those would be material things, yes.

Q. So all of that is included in a claim for consortium; is that right?

A. Yes.

Q. And you knew that back in 1997 when you were doing the story; is that right? You know that consortium included all of these things; is that right?

A. Yes.

Q. Then it goes on to say, "Not only material services but such intangibles as society, guidance, companionship", and what are the

very last words?

A. Sexual relations.

Q. So in this whole gamut the very last we see are sexual relations?

MR. DAVID: Objection.

MR. BAINE: Objection.

MR. ANGINO: You're always getting so excited.

Q. Is that what it says?

MR. BAINE: Objection to the form of the question.

Q. Is that what it says?

MR. BAINE: You just read two sentences. You read them correctly.

Q. Then goes on to say, "Damages for loss of consortium are commonly sought in wrongful death action or when a spouse has been seriously injured through negligence of another or by spouse against a third person alleging that he or she has caused the break-up of a marriage."

Did I read it correctly? "Cause of action for consortium occasioned by injury to a marriage partner, is a separate cause of action

belonging to the spouse of the injured married partner and though derivative in the sense of being occasioned by injury to spouse, is a direct injury to the spouse who has lost the consortium"? Did I read that properly?

A. Yes.

Q. So that going back to Socrates all men are mortal, Socrates is a man, Socrates is mortal; is that right?

A. Yes.

Q. Some consortium claims involve a loss of sex. Mr. Tucker brought a consortium claim, it involves a loss of sex; is that logical?

MR. BAINE: Objection to the form of the question.

MR. DAVID: Object to the form of the question.

MR. BAINE: Objection to the form of the question. There's no proper foundation for that question.

Q. Is that a logical conclusion?

MR. DAVID: Object to the form of the question.

A. Repeat the question please.

Q. Some claims for loss of consortium involve sex. Mr. Tucker filed a claim for loss of consortium, Mr. Tucker filed a claim for loss of sex.

MR. BAINE: Same objection to the form of the question. There's no foundation for that question.

MR. DAVID: I'd like to state my objection also if I could. As far as I know there is nothing to predicate that on. Some causes of action for consortium involve loss of sex. Loss of sex is only one of the elements, but there's no predicate in this record anywhere that I know of and I don't think you have a good faith basis for making the statement which is a requirement for a question in Federal Court that only some cases involving loss of consortium involve loss of sex.

Q. I'll say it again, tell me if that's a logical conclusion. Some claims for loss of consortium involve situations whereby one's sex life

has been affected and one is making a claim for the effect upon one's sex life. Do you understand that?

MR. BAINE: What do you mean did he understand that?

Q. Do you understand what I just said?

A. No.

MR. BAINE: I'm going to object. What you just said, there's no foundation for it in the record. Now what you're doing, you, as a witness again are giving this witness your understanding of loss of consortium as of this day.

Q. I'm asking you to take as a hypothetical, okay?

MR. DAVID: That's not the subject of a hypothetical.

Q. Or a premise, let's use the appropriate term, take as a premise.

MR. BAINE: I'm going to object to your asking him to accept that as a premise because it's not a hypothetical question which

involves a hypothetical set of facts. It's your current explanation of the word "consortium" and that's not a matter of hypothesis.

Q. Having objected, accept this premise, assume as a premise that consortium involves various elements including sex, accepting that as a principal premise.

A. That it includes sex.

Q. As one of the elements.

A. Yes.

Q. Mr. Tucker has made a claim for loss of consortium. Conclusion, Mr. Tucker has made a claim for loss of sex. Is that a proper conclusion?

A. In this instance, yes, because—

MR. BAINE: You just have to say yes or no.

A. Okay.

Q. And you were about to say why, why under this circumstance.

A. Well, because I called you and specifically approached this matter with you indicating that certainly that had been the view of

Mr. Fischbein and you said, "Well, there's a lot of other stuff in here too. This is only one of them."

Q. And I said, "That's what is called a defense tactic"?

A. Among other things, that's what you said, but you also said, "Yes, it can include sex."

Q. The word?

A. That's what we were talking about. We were talking about the word. I called you and said, "This is how they're—how he is interpreting this particular—that's how they were interpreting it."

Q. Did I indicate that that was an improper interpretation?

A. No. Not at all.

Q. Next paragraph on seven.

That is the kind of thing that you—do you know what those words meant?

A. Here I think you had gone into a discussion about gangsta rap and that it was not a positive thing, gangsta rap, and that all of

these other people had been involved in the battle against certain lyrics.

Q. Don't you think that you have that misplaced?

A. No.

Q. That's what is called a defense tactic, that is the kind of thing that defense lawyers do?

A. No, I don't recall that that is what I was writing there, no.

Q. You don't. Then tell me how it has any relationship to do with, "Bennett is on her side"?

A. Because you were jumping around in the conversation.

Q. Well, tell me the relationship between, "That is the kind of thing that—", is that a sentence, "That is the kind of thing that"?

A. Right, right. I'm not suggesting that it has any relation to what came prior to it. As I was saying, you were jumping around from different things to different things in the conversation.

Q. Does it have anything to do with what follows?

A. That's what I said, I thought it was the introduction into another subject, that being, another subject being that gangsta rap has all these elements that are negative and that's the kind of thing that Bennett, Gore and others have opposed.

Q. What I want to know is what it means, "That's the kind of thing that."

MR. BAINE: He just said—read the last line the last answer.

(Record read)

Q. So what you're saying is that we were then talking about gangsta rap and, "That is the kind of thing that", refers to gangsta rap, not to, "That is what is called a defense tactic", that's what you are saying?

A. Right.

Q. Where do you see that?

A. Where do I see what?

Q. That we were talking about gangsta rap?

A. Because we bounced back into Bennett and Gore, from Mr.

Bennett and Mrs. Gore, and you were broadening the conversation that she is not alone in all of this, that there are other prominent people who oppose gangsta rap.

Q. Tell me from your recollection, there's reference to calling Ms. Tucker an MF and, "This is your wife", "That's what is called a defense tactic", are you saying the conversation just jumped then over to Bennett?

MR. BAINE: Objection to the form of the question.

Q. Is this what you're saying jumped over to gangsta rap, that's the way I talked?

A. Yes, I am saying that's what happened.

Q. Didn't say, "That's the kind of thing that lawyers do"?

A. Mr. Angino, with respect to your characterization of Mr. Fischbein's conversation with me, all I have recorded is, "That's what is called a defense tactic", that's what you said to me.

Q. That's all you've recorded, but then your next thing is, "That

is the kind of thing"; is that right?

A. Right and I think I've answered what I thought that was.

MR. BAINE: I think the record should reflect that although you've said it's the next thing there is a double space.

MR. DAVID: Can I ask when we are going to take lunch breaks?

MR. ANGINO: It's 20 after one, I'm hoping we'll be done in 10 to 15 minutes. Is that satisfactory?

MR. DAVID: Fine.

MR. BAINE: Off the record.

(Discussion held off the record.)

Q. You've recorded here an intention to call Mrs. Gore; is that right?

A. You discussed calling Mrs. Gore.

Q. What is the next word, "strategy"? "This was a particular situation Mrs. Gore was interested in", what does that mean?

A. That she had been involved in this subject, this whole lyrics

issue in music sometime ago.

Q. The words, "Dionne Warwick"?

A. That Dionne Warwick, this had been a subject that was of interest to her as well.

Q. I see another big space, then what?

A. "Put out a record to defame her, it's all intertwined."

Q. What does that mean?

A. You were asserting that Tupac put out a record to defame Mrs. Tucker and that all of this stuff on the part of the music industry, at least with respect to gangsta rap, was all connected.

Q. With what?

A. What do you mean with what?

Q. Intertwined with what? Something has to be intertwined.

A. To subvert the campaign of the anti-rap people.

Q. So basically the song, the lawsuits, all of these things were attempts to stop Mrs. Tucker; is that right?

MR. BAINE: That's a question?

A. What's the question?

Q. That the lawsuits, the defamatory records, the threats were all ways to stop Mrs. Tucker and her campaign; is that correct?

A. I don't know if they were or not.

Q. Is that what was discussed, how these were all intertwined?

A. That's what you said in the conversation, yes.

Q. That's what I'm saying, that's what I said in the conversation; right?

A. Yes.

Q. How they were all intertwined?

A. Correct.

Q. Did you not understand then that what was the purpose of the lawsuits?

MR. BAINE: Which lawsuits?

MR. ANGINO: The one brought aginst the Tupac Shakur estate.

MR. BAINE: By the Tuckers?

MR. ANGINO: By the Tuckers.

A. Well, to assert that—

MR. BAINE: Object to the form of the question. Are you

asking for his understanding or what you said?

MR. ANGINO: His understanding.

A. No, no because I was anxious.

Q. What I said, your understanding of what I said to you was the purpose of lawsuit to assert that she had been injured and that he had been injured in some way by the Defendants resulting from Mrs. Tucker and her allies pursuing this anti-gangsta rap campaign and that you were trying to recover damages for that. And there was a conversation along that line?

A. Yes, you talked about the lawsuit.

Q. But what you've recorded are those words that make up that one line; is that right?

A. No. You lost me. Which one line?

Q. "Put out a record to defame her, it's all intertwined."

A. Yes.

Q. Then there's another big space, "What I suspect is that major

companies involved here Seagrams and Time Warner, they know they are wrong in supporting. I don't know what will happen"; what does that mean?

A. That either you or Mrs. Tucker believes that Seagrams and Time Warner having economic interest in rap music were pursuing those economic interests even though they knew that supporting rap was wrong and that you didn't know what would happen in the Washington.

Q. I don't know what will happen referring to the lawsuit?

A. That's what I meant, the outcome.

Q. Did you not ask me questions such as what generally happens with regard to such a lawsuit, what's the next step, what will happen when it will come to trial? Were those not a series of questions of yours?

A. I don't know that, I don't recall that I asked you a series of questions, but certainly I wanted your view on what will happen as a result of these lawsuits having been filed.

Q. Did I not say they have to file responses and then there's discovery and the case eventually will come to trial and you said, "When will it come to trial", and I said, "We are in the Eastern District and they move cases along, but I suspect that the case would come to trial in a year or less", was that not the substance of that conversation?

A. We talked about that the Eastern District earlier on in the conversation for sure, so somewhere in the conversation that's what I meant, we are jumping all over the place throughout this conversation, but yes somewhere in the conversation you talked about the sort of procedures, yes, here it is, yes you said it.

Q. And, "Dr. Tucker has a lot of friends who respect her in high positions"?

A. You talked about that, that she had influential people.

Q. And that I suspect that if we asked them they would support her, I would be surprised if the matter isn't up for trial, the case in California has been going on against her for two years. Did we not

talk about Eastern District, we expect cases to move along quickly, was that not the tenor?

A. I vaguely remember you specifically talking about the Eastern District of Pennsylvania.

Q. And although you have, "Up for trial for a year", did I say, "Up for trial in less than a year, not to take any longer"?

MR. BAINE: Objection to the form of the question. You misread that. It says, "I would be surprised if the matter isn't up for trial within the year."

Q. So the interpretation is it would get to trial before the year was up; right?

A. Yes.

Q. So basically is it correct that you took Fischbein's conversation and you took my conversation and you took the Complaint and you wrote an article?

A. No.

MR. BAINE: Objection to the form of the question.

Q. What else did you—

MR. BAINE: I don't want to complicate, there are a lot of other things in the article.

MR. ANGINO: I'll talking about the Tucker part of it.

A. Okay, so your question is?

Q. With regard to what you said about the Tucker portion of the article you took what Fischbein said, you took what I said and you took the Complaint; is that right?

A. Correct, I think it reflects that.

Q. Did you have any other sources?

A. No.

Q. So you weren't relying on Black's dictionary?

A. You mean did I go to Black's dictionary?

Q. Yes.

A. No, I didn't in this instance go to Black's dictionary, but I knew that consortium include sexual relations.

Q. Included or could include?

A. No.

Q. Included or could include?

A. In this instance included because at 50 you specifically say they, "Suffered the loss of advice, companionship and consortium."

Q. So what you're saying is advice, companionship and consortium to you meant sex?

A. I'm sorry?

Q. Meant sex, loss of sex?

MR. WILLIAMS: Objection.

MR. DAVID: Objection.

A. Repeat your question. I'm sorry.

Q. You saw in the Complaint society, companionship and consortium?

A. There's no society here.

Q. Whatever. What is the word?

MR. DAVID: Objection.

MR. BAINE: Advice, companionship and consortium.

Q. And you took the word "consortium" to mean sex?

A Not exclusively, but you had advice, companionship or also included in consortium, but you specifically stated here in separate

clauses that she had lost those, so the broad definition of consortium includes all of these things. You gave them their separate sort of emphasis so that sex would have been included in consortium along with some of those other elements that form consortium.

Q. Did I say advice, companionship and sex?

MR. BAINE: Excuse me, does the Complaint use those words?

MR. ANGINO: Yes.

MR. BAINE: We agree that those, advice, companionship and consortium, right.

Q. And you took the three sources, the Complaint, conversation with Mr. Fischbein and your conversation with me and I assume prepared an article; is that right?

A. I prepared an article, yes.

Q. And does that article show up in various forms in what we call Newsweek 1 through 5?

A. Yes.

MR. BAINE: Objection to the form of the question, when you say "various forms".

MR. ANGINO: It may be one form, I don't know.

MR. BAINE: Okay.

Q. Is this entire article one through five?

A. Yes, it is.

Q. Not being in the publishing field, is this final draft before publication, preliminary draft, intermediate draft? Tell me what this is.

A. This is final draft.

Q. Were there other drafts before this?

A. Were there other drafts before this? A piece was edited.

Q. Can you tell me what it appeared in its initial form and how it went through its different editing?

A. Well, just to the process as I explained earlier, as I wrote the story, turn it in and upwards of three editors would read it and edit

it. They would have questions along the way or they would want clarification along the way.

MR. ANGINO: Do they have a record of the different drafts, an editor copy?

MR. BAINE: Is this the only record that we have.

MR. ANGINO: So you don't have like the earlier drafts that we have for our Complaint?

MR. BAINE: We don't have prior versions of the article.

MR. ANGINO: Are you able to get prior versions?

MR. BAINE: No.

MR. ANGINO: The computer won't let you do that?

MR. BAINE: No.

Q. What we have now is the edited version; is that right?

A. Yes.

Q. And basically the reference to C. Delores Tucker starts on one; does it?

A. On Page 001.

Q. Yes?

A. The first reference to Ms. Tucker is on that page.

Q. The word "even" is there. Do you know what's that next line with the LB; what does that mean?

A. What does what mean, the LB?

Q. What does that mean?

A That's a production function, it aligns and I'm not an expert in this stuff, but it makes, it helps make the line fit into the space allotted for the story.

Q. "Even C. Delores Tucker, the gangsta rap foe wants a chunk. She and her husband claim that a lyrical attack by Tupac iced their sex life." Is "iced" a word you use in your normal vernacular?

A. I mean I've had occasion to use ice.

Q. What does it mean?

A. Damaged, interrupted.

Q. Destroyed?

MR. BAINE: He gave you his definition.

Q. Destroyed?

A. Damaged, interrupted.

Q. She and her husband claim—did she claim?

MR. BAINE: Did she claim what?

Q. That the lyrical attack by Tupac iced their sex life?

A. She claims she was injured.

Q. In what fashion?

A She claims she was injured in a way that affected her husband.

Q. She claimed that she was injured in a way that affected her husband. Tell me how you got that.

A. It's in the lawsuit.

Q. Tell me what it is in the lawsuit that says that.

A. That would be 0122, Paragraph 50.

Q. Is that her claim or is that his claim?

A. I was talking about his wife being injured, his assertion is embedded certainly in Paragraph 50.

Q. What is Paragraph 50?

A. "Plaintiff's husband, William Tucker, has as a result of his wife's injury suffered a loss of advice, companionship and consortium."

Q. And you're saying that her lawsuit can be fairly reported as being one where she and her husband claimed that a lyrical attack by Tupac iced their sex life, is that a fair reporting of that Complaint?

A. That's what the lawsuit alleges.

Q. Is that a fair reporting of the Complaint?

A. Yes.

Q. You then quoted Tupac, quoted Fischbein, "It's like being on a ship and pirates trying to loot it."

MR. DAVID: Objection to the sequences and you then quoted Fischbein.

MR. ANGINO: That's the quote.

MR. DAVID: But there's nothing there saying that those two are directly connected.

MR. ANGINO: No, but one directly follows; does it not?

MR. BAINE: I think we can note an objection to the form of the question and note what you're doing is reading the last two sentences of a full paragraph.

MR. ANGINO: Right.

MR. BAINE: And the sentence quoting Mr. Parlans the sentence that refers to a number of items.

MR. KASTENBERG: You also misread it.

Q. "It's like being on a ship and watching pirates loot it"?

A. That's a quote.

Q. Are you, by the tenor of your article talking about the ship as being the Tupac Shakur estate?

MR. BAINE: Objection to the form of the question. That's Mr. Fischbein's words, not his.

Q. Right, but is the article talking about the various lawsuits

that are all trying to get a part of the Tupac Shakur estate?

A. Is that what the article is about?

Q. Yes.

A. The article is about the number of actions brought against the Tupac estate, yes.

Q. Trying to get part of that; is that right?

A. Trying to collect damages.

Q. And quoting Fischbein, "It's like being on a ship and watching pirates trying to loot it", is that the quote?

A. That's the quote.

Q. So at least from Fischbein's vantage point, the ship would be the estate; is that right?

MR. DAVID: Objection. How could he know what Fischbein thought?

Q. I mean the words, would you say the ship is the estate?

A. No, I wouldn't say that. I would say that I think that's what he—

Q. That's what Fischbein is looking at it as, the estate is the ship

and these lawsuits are the pirates; is that right?

A. Yes.

Q. That's what you quoted, is that right, as being the words of Fischbein; is that right?

A. That's correct.

Q. Where do we next have Tucker mentioned?

MR. DAVID: If I could, we are now way way over your ten-minute estimate, all right. Do we have a new estimate?

MR. ANGINO: Five minutes maybe. We're getting to the end.

Q. 004, what is said there?

A. Beginning the last paragraph on that page?

Q. "Fischbein fairly smirks about the suit by Tucker", what do you mean "smirks"?

A. What I mean there is in the way that he discussed that particular case the tone was lighter than in the discussion of some of

the other cases.

Q. By lighter do you mean he thought less of it?

A. What do you mean by that?

Q. That he thought it was even more ridiculous than the other ones?

MR. BAINE: Objection to the form of the question. It's actually describing the notes is exactly what he said.

Q. Smirks to me normally shows a physical movement. Did you ever talk to Mr. Fischbein face to face?

A. No.

Q. So when you use the word "smirk" you were referring to voice?

A. Yes.

Q. You were taking about whatever voice you were hearing and telling the leadership that Fischbein fairly, what does fairly mean? "Fischbein fairly smirks"?

A. Well, it certainly wasn't that he was laughing. I think in my conversation with him, it was his view that the allegations made here

were less serious than those in the other suits and that was in part conveyed in how his voice was in discussing it.

Q. Now early on you said that they claimed that the lyrics had iced their sex life. At the end then you said, "Among other things", what are those other things?

A. Well, this.

MR. BAINE: You will allow him to read it?

A. You want me to read it?

Q. I want to know what the other things are, yes.

MR. BAINE: It speaks for itself, it is a sentence. You want it read?

Q. "Among other things she asserts that she feared for her life, had been humiliated and can no longer have sex with her husband."

Did she assert that she could no longer have sex with her husband?

A. Again, I go back to Paragraph 50 and I refer back to the conversation that I had with you.

Q. Did I say that she couldn't have any sex with her husband?

A. No.

MR. DAVID: Object to the form of the word "any".

Q. Is that she could no longer have sex?

MR. BAINE: Did he use those words?

A. No, you didn't use those precise words, no.

Q. Where did you get the words, "Can no longer have sex with her husband"?

A. That's one of the definitions of consortium, that it affects sexual relationships.

Q. But the loss of consortium, the loss of the ability to have sex with your partner, forever?

A. No, not necessarily forever.

Q. As often?

MR. BAINE: What was that?

MR. ANGINO: As often.

MR. BAINE: I don't understand that.

Q. If you see the word "consortium", let me just follow what you're saying here. You took the word "consortium" and interpreted that word to mean loss of sex; is that correct?

MR. DAVID: He also had a conversation with you.

A. Not just the word. I had a conversation with you as well.

Q. All I said was that the word can include sex; did I not?

MR. BAINE: Objection to the form of the question.

MR. DAVID: Objection.

Q. Did I not tell you that the word "consortium" can include sex?

MR. BAINE: Objection to the form of the question.

Q. Answer it, please.

A. In the context of the conversation the question that I had with you, what I told you that was said to me by Mr. Fischbein, yes, in fact—

Q. Yes, in fact what?

A. Yes, in fact, I came away from that conversation very much confidently believing that that was your view as well, it meant sex.

Q. That it could include sex?

A. That it meant sex because you didn't say, "No, Johnnie, this does not mean that, that is absolutely the wrong interpretation of that word. That's not what we mean here", you never said that to me.

Q. Did I say it could include sex?

MR. BAINE: Objection to the form. He's described the entire conversation, now you want to ask him about one sentence?

Q. Let's start with that. You came away with the conclusion that the word "consortium" meant loss of sex; right?

A. Well, I knew before the conversation that it could certainly mean the loss of sex and I left the conversation believing certainly the loss of consortium is the loss of the ability to have sex.

Q. At all?

MR. DAVID: Objection. He didn't say at all.

A. I didn't say at all.

Q. Well, did you get something from my conversation that lead you to believe that she could no longer have sex with her husband, that they were no longer having—

A. That their ability to have sex had been interrupted, that something was wrong there.

Q. They could no longer have, it is that your words, "They can no longer have sex"?

A. That's it.

Q. That's what you got from our conversation?

A. Not just your conversation.

Q. What else did you have that told you that they could no longer have sex?

A. I knew that the meaning of the word "consortium" and the loss of consortium meant that or it certainly included the loss of the ability to have sexual relations.

Q. When you quoted me—

A. I knew—

Q. Go ahead.

A. I knew one of the attorneys certainly interpreted the word that way and I knew that when broached with you that you certainly didn't say that, "Oh, no, Johnnie, this is absolutely wrong." You said to me, "That's not the only thing in the lawsuit, there are all of these other things, threats to her and humiliation and so forth. That is a defense tactic to focus only on one thing."

Q. But was there ever anything that said they couldn't have sex?

MR. DAVID: Objection. The witness has answered that question.

Q. Did I ever say they wouldn't?

MR. BAINE: You want to know if you used those—

Q. Yes, did I ever say they could no longer have sex?

MR. BAINE: You can answer it again whether he used those words.

Q. That they could no longer have sex?

A. As indicated here there is no quotation mark, I did not quote you directly as saying that.

Q. Did I say in effect that they could no longer have sex?

A. No.

MR. BAINE: Did you say in fact or in effect?

MR. ANGINO: In effect.

Q. Or words to the effect that they could no longer have sex?

A. In effect. In effect you left me clearly with the understanding that their sex life had been damaged in some way certainly.

Q. Some way.

Did you come away that they could no longer—

MR. WILLIAMS: He's not finished.

A. That they could not for a point in time have sex. Somewhere around the time that this lawsuit was drafted certainly.

Q. So when you quoted Fischbein you quoted, "I can't wait to hear her testimony on that subject", when you quoted me all that

you had was, "Affected the family union"; is that right?

A. That's correct.

MR. ANGINO: Let's go to lunch.

MR. BAINE: You're finished?

MR. ANGINO: Yes.

(Luncheon recess taken)

EXAMINATION BY
MR. DAVID:

Q. All right. Mr. Roberts, since you haven't gotten a chance to tell the story of what actually happened in that conversation without interruption, I'd like you to tell us what occurred in the conversation between you and Mr. Angino as it related to the issue of whether sex was a component of the claim being made by the Plaintiffs. Tell us what you said to him and what he said to you.

A. I called him and we talked about other things, but when it turned to the subject of, the subject of sex was broached by me, when I said to him, "Mr. Angino, Mr. Fischbein certainly was interpreting

that Paragraph 50 to mean that the sex life of Mr. and Mrs. Tucker had been damaged meaning that it had been affected negatively in some way", and he said to me, he being Mr. Angino, that that particular paragraph certainly encompassed sex, that there were other things in that lawsuit, the humiliation and the threats and so forth. In short he seemed to be very interested in broadening what the various allegations were being made in that lawsuit. He seemed to be concerned that the focus prior to, the earlier focus was almost exclusively on sex and that that was a mischaracterization to focus exclusively on sex, but that there were these other things as well.

Q. Did Mr. Angino ever say to you in words or substance in any conversation that you had with him that sex was not a component of the damages being claimed by the Plaintiffs?

A. Never.

Q. Sir, you've been shown certain notes of conversations that you took, do you regularly take notes in the course of your business?

A. Yes.

Q. Is it, in fact, part of your normal business to take such notes?

A. Yes, it is.

Q. Sir, if I could, you were asked about a reference to Black's Law Dictionary. I'd like to give you a copy if I could of the 1951 edition of it, you've been shown the later edition, all right, and I'd ask you to take a look at the word "consortium" and just read that first paragraph. The only reason I'm asking you to read it because I've misplaced my other copies of it, so I'd want everybody to know what you're reading.

A. "Conjugal fellowship of husband and wife and the right of each to the company, cooperation, affection and aid of the other in every conjugal relation."

Q. I apologize I do have copies.

MR. DAVID: I'd like to have that marked as the next exhibit Number 5.

(Roberts Exhibit 5, copy of Black's Law Dictionary page,

marked for identification.)

Q. Mr. Roberts, have you ever heard the term "conjugal relation"s used for exam in the instance of prisoners?

A. Yes.

Q. Do you have an understanding of what the word "conjugal" means to you as a layperson, journalist?

A. There are often referred to as conjugal visits in which case the spouse, significant other of the person incarcerated is allowed to visit privately with the incarcerated and it is widely and generally assumed that during that visit one thing they do is have sexual relations and are provided the privacy in which to have those relations.

MR. DAVID: I'd like to have this marked as Exhibit Number 6.

(Exhibit 6 , page from The American Heritage Dictionary of the English Language, marked for identification.)

Q. I'm going to ask you to take a look at the definition of

consortium, it's approximately four definitions from the bottom on the left-hand side of the page and particularly the third one, which is preceded by an italicized word "law". Can you read that to yourself, sir?

A. To myself?

Q. Yes. Everybody has a copy of it, I don't think we need to read it into the record.

MR. BAINE: Mine is a not legible.

Q. "Law: The right of a spouse to the company of, help of, affection and sexual relations with his or her mate."

Sir, at the time at which you read the term "consortium" in the Complaint did you have an understanding as to what you understood that to mean?

A. Yes, I did, but—

Q. Go ahead, I'm sorry.

A. I wanted to ask a question of—

(Witness and counsel confer)

A. Let me read it myself.

MR. BAINE: Just answer the question.

A. Yes.

Q. Is it fair to say, sir, that your understanding of that term comported with the dictionary definition that we just read?

A. Very much so.

Q. Is it fair to say, sir, that your understanding of that term was that it included multiple elements of which sex was one?

A. Yes.

Q. When you got done with your conversation with Mr. Angino did you have a belief as to whether the Complaint in this case included a claim for loss of sex?

A. Yes.

Q. And what was that belief?

A. What was my belief? That it did.

Q. After you had your conversation with Mr. Angino what was your belief as to that issue? I'm asking for your state of mind if I could.

A Well, that certainly in this instance included it because I had

specifically or he had the opportunity specifically to disabuse me of the notion that it didn't include sex.

Q. And in fact the question of whether sex was a component was a substantial part of your conversation with Mr. Angino?

A. That's correct.

Q. I have no further questions.

MR. WILLIAMS: No questions.

MR. BAINE: I have no questions.

FURTHER EXAMINATION

BY MR. ANGINO:

Q. I just have a couple. Do you understand that amended Complaint that was filed in—

MR. DAVID: Objection. That is not within the scope of the questioning that I—

MR. ANGINO: It doesn't matter. It is a deposition, I mean you are—

MR. BAINE: Let me say, Mr. Angino, that I would say it's not

only not related to his questions, that's after the Newsweek article was published, so it doesn't have any bearing on what Mr. Roberts did.

MR. ANGINO: That's fine.

MR. BAINE: Try to keep it brief because it has nothing to do with these activities.

Q. Do you know that there was an amended Complaint that was filed in the Tupac Shakur case?

A. Yes, I think I'm aware that there was an amended Complaint.

Q. And I suggest to you that there was marked as an exhibit Tupac or Time Warner 12 that amended Complaint.

First of all, this will not take more than a minute or two. You will see that on August 27, 1997—

MR. DAVID: If I could I'm going to have an objection to this entire line of questioning and we'll go from there.

Q. The amended Complaint was served on various Defendants; do you see that?

MR. DAVID: Again, I'm going to object. I believe that this is inconsistent with a document which you, yourself, authored.

Q. You see that?

MR. BAINE: He's looking at a Certificate of Service which there is no reason to believe he's ever seen it before.

Q. That's what I'm saying and you see 8/27/97; is that right?

A. On the following page, yes.

MR. BAINE: And we can agree on the record that the Newsweek article was on the newsstands two days before that?

MR. ANGINO: Absolutely.

Q. And your conversation with me was seven days before this; is that right, can we agree to that?

A. Whenever the date is on the phone records.

Q. And, we can agree that my name appears on this amended Complaint; is that correct?

A. Yes.

Q. Can we agree that Paragraph 45 states, "Defendant co-administrator of the estate of Tupac Shakur has continued to defame and harass Plaintiff by holding her up in a false light even after the Complaint in this matter was filed on June 21, 1997"?

MR. BAINE: That's wrong, but that's what it says.

MR. ANGINO: Does it say July?

MR. BAINE: It says June, you read it correctly.

Q. The next is 46, "Defendant Fischbein made false and misleading statements regarding the claim herein", is that what I said? Are those the words there?

MR. BAINE: It's part of the sentence.

Q. Did I not tell you exactly the same thing? Now we are going back to the—

MR. BAINE: Now you're back to the conversation.

MR. ANGINO: Seven days before this was filed.

MR. BAINE: Your question is?

Q. You and I talked; is that correct?

A. We talked on whatever that date was in the phone records.

Q. Did I in essence tell you that Defendant Fischbein was making false and misleading statements regarding the claim of Plaintiff?

MR. DAVID: Objection to the form.

MR. BAINE: Objection to the form. He's explained to you what you said about Mr. Fischbein's comments.

Q. But if you can answer that question you can go ahead and answer the question.

Did I say that Fischbein was making false and misleading questions regarding the claim?

A. The only thing that I remember you saying with respect to Mr. Fischbein was quoted. These are my notes, I'm reading from

0007, "That's what is called a defense tactic."

MR. ANGINO: No further questions.

MR. BAINE: We are concluded. Thank you.

(Time noted: 2:00 p.m.)

LEGAL AFFAIRS

Grabbing at a Dead Star

Lawsuits plague rapper Tupac Shakur's estate

By Johnnie L. Roberts

Rap star Tupac Shakur's ashes had hardly cooled before the gold rush began. Now, almost a year after his death, his mother is defending the estate from an old lover who turned up to prove he's Tupac's father. An Arkansas court has already awarded $16.6 million to a woman who was shot at a Tupac concert. Until a tentative settlement last week, Tupac's label, Death Row Records, was demanding a $7 million slice, and its imprisoned CEO wanted millions more. Even C. Delores Tucker, the gangsta rap foe, wants a chunk. She and her husband claim that a lyrical attack by Tupac iced their sex life. "It's like being on a ship and watching pirates trying to loot it," says attorney Richard Fischbein, who administers the estate with Tupac's mother, Afeni Shakur.

As Thomas Mann wrote, "A man's dying is more the survivors' affair than his own." Since Tupac was murdered last September, his multimillion-dollar legacy has become the contentious affair of kin, colleagues and alleged opportunists from L.A. to Australia. In his lifetime, Tupac's profane rap lyrics and violent encounters made him controversial, helping to swell by tens of millions of dollars the coffers of Death Row and its corporate benefactors, Interscope Records, Time Warner and Seagram's Universal (formerly MCA).

Yet Tupac was almost broke when he died. Alleging massive fraud and conspiracy, Fischbein and Afeni Shakur sued Death Row, its jailed CEO, "Suge" Knight, and its lawyer, David Kenner. They owed Tupac at least $9.9 million, the suit alleged, and $7.1 million more in expenses charged to his account that he hadn't incurred, including $120,000 for a house Kenner rented. As of last Friday, the estate was close to settling on its terms, according to Fischbein. Even before that, he adds, there was $7 million on hand from royalties and movies. A settlement could ultimately push the estate's value to $50 million, estimates one person close to the matter.

The fortune increases the stakes in the ugly probate battle in Los Angeles between Tupac's parents. Tupac had no will, but there seems little doubt that he would have wanted his mother to inherit. The identity of his biological father had always been in doubt. Although Afeni had once been a confessed drug addict, her son loved and supported her, writing a song about her titled "Dear Mama." But California law requires the estate to be split by the parents if there's no will. Enter William M. Garland, who has established paternity through DNA testing. "Afeni had contended that Tupac's father was dead," says Garland's attorney, Mitchell Reinis. Says Fischbein: "We call it the case of the deadbeat dad. He won't be rewarded for his lack of interest in his son."

The most serious blow to the estate resulted from a 1993 tragedy in Pine Bluff, Ark., in which Jacqualyn McNeasley, 27, was struck by a stray bullet at a Tupac concert. Last November a judge granted damages of $16.6 million when Tupac's representatives failed to show at a hearing. Fischbein says Tupac was never properly notified of the lawsuit and that he himself knew nothing of it until he was phoned by MTV after the judgment. The estate is appealing. "The police report totally said Tupac had nothing to do with it," Fischbein says.

Fischbein fairly smirks about the suit by Tucker, a persistent crusader against gangsta rap. On an album last year, Tupac addressed Tucker as a "mother-f--ker," and he suggested that she was a prostitute—at least that's what she alleges in a lawsuit against the estate, Death Row and others. Among other things, she asserts that she feared for her life, had been humiliated and can no longer have sex with her husband. Says Fischbein: "I can't wait to hear her testimony on that subject." Her attorney, Richard Angino, says the lyrics "affected the family union." On that note, Tupac will rest in peace. ■

Broke when he died: *But the estate could grow to $50 million*

The critic: *Lyrics affected 'family union'*

Death Row boss: *Demanding a slice*

Prodigal dad: *DNA proves paternity*

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FILED SEP 02 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION NO. 97CV-4717

C. DELORES TUCKER and
WILLIAM TUCKER, her husband,

Plaintiffs

v

MTS, INC. t/a TOWER RECORDS; INTERSCOPE, INC.; INTERSCOPE RECORDS; TED FIELD; TIME WARNER; JAMES IOVINE; SEAGRAM CO.; MCA INC.; DEATH ROW RECORDS, INC.; DAVID KENNER; RICHARD FISCHBEIN as co-administrator and
AFENI SHAKUR as co-administratrix of the
ESTATE OF TUPAC SHAKUR,

Defendants

JUDGE RONALD BUCKWALTER
JURY TRIAL DEMANDED

AMENDED COMPLAINT

1. Plaintiff C. Delores Tucker is the chair of the nonprofit National Congress of Black Women, Inc. She is the former Secretary of State of the Commonwealth of Pennsylvania and Chair of the Democratic National Committee Black Caucus and the National Board of N.A.A.C.P.

2. Plaintiff C. Delores Tucker resides in the Commonwealth of Pennsylvania.

3. Plaintiff William Tucker is married to C. Delores Tucker and resides in the Commonwealth of Pennsylvania.

4. Defendant MTS, Inc., under the trade name of Tower Records, is a California Corporation with its principal place of business in California.

5. Defendant Interscope, Inc. is a California Corporation with its principal place of business in California.

6. Defendant Interscope Records is a California General Partnership with its principal place of business in California.

7. Defendant Ted Field is an owner or partner and/or has a financial interest in Interscope Records and resides in a state other than Pennsylvania.

8. Defendant Time Warner has or had a financial interest in Interscope Records, and its principal place of business is in a state other than the Commonwealth of Pennsylvania.

9. Defendant James Iovine is the President of Interscope Records and resides in a state other than Pennsylvania.

10. Defendant Seagram Co. is a company with a financial interest in Interscope and has its principal places of business outside of the Commonwealth of Pennsylvania.

11. Defendant MCA Inc. and/or Universal are corporations with a financial interest in Interscope and principal places of business in a state other than the Commonwealth of Pennsylvania.

12. Defendant Death Row Records, Inc., is a California Corporation with its principal place of business in California.

13. David Kenner is an attorney representing Death Row Records, Inc., may have a proprietary and/or other financial interest in Death Row Records, and resides outside the Commonwealth of Pennsylvania.

14. Defendant Afeni Shakur who resides in a state other than Pennsylvania is the co-administratrix of the Estate of deceased Defendant Tupac Shakur.

15. Defendant Richard Fischbein who resides in a state other than Pennsylvania is the co-administrator of the Estate of deceased Defendant Tupac Shakur.

16. At all times relevant to this Complaint, up until his death on September 13, 1996, deceased Defendant Tupac Shakur was a servant, agent, apparent agent and/or employee of Defendant Death Row Records and was acting within the course and scope of employment for Death Row Records.

17. At all times relevant to this Complaint, James Iovine was a servant, agent, and/or employee of Interscope Records and was acting within the course and scope of employment for Interscope Records.

18. At all times relevant to this Complaint, David Kenner was a servant, agent, and/or employee of Death Row Records, Inc. and was acting within the course and scope of employment for Death Row Records.

19. At all times relevant to this Complaint, Defendant Interscope Records had an exclusive distribution agreement with Defendant Death Row Records through which Interscope Records distributed under its label, recordings produced by Defendant Death Row Records.

20. At all times relevant to this Complaint, Defendant Interscope Inc., was the managing general partner of Defendant Interscope Records.

21. At all or various times relevant to this Complaint, Interscope Records was 50% owned by Seagram Co.'s MCA Inc.

22. At all or various times relevant to this Complaint, Interscope Records was owned in part by Time Warner or Time Warner had a financial interest in Interscope.

23. Prior to February, 1996, Plaintiff C. Delores Tucker was the leader of a large group of religious, moral, and law abiding citizens who marched, lobbied, and campaigned against the pornographic and drug oriented misogynistic lyrics of "gangsta" rap as created, promoted, distributed, and marketed by various defendants to minors without restriction.

24. "Gangsta rap" is a slang expression using vernacular for the word "gangster" which, by definition refers to one engaged in anti-social or criminal behavior. Furthermore, the music contains vile, profane, obscene and indecent lyrics which glorify drugs, violence, and illicit sex. "Rap" or "Hip Hop" is a form of music, more spoken than sung, and can be distinguished from "gangsta rap" in

that it chronicles life in the ghetto without obscene and indecent lyrics, and may have redeeming social value.

25. Various defendants involved with Death Row Records and "gangsta" rappers take pride in the sex, drugs and "gangsta" violent behavior and its influence on increased record sales.

26. Plaintiff has focused her attention on stopping the production and distribution of said music to impressionable youth, because it tends to corrupt the morals of minors, in violation of 18 Pa.C.S.A. §6301(a), that some of it is obscene and unprotected by the Constitution, and some is "explicitly sexual material" in violation of 18 Pa.C.S.A. §5903(c). See Exhibits "A" and "B" attached hereto.

27. Said efforts met with widespread support across political, racial and economic lines, including support from William Bennett, former U.S. Secretary of Education, U.S. Senator Joseph Lieberman, Majority Leader and Vice Presidential candidate Robert Dole, and General Colin Powell.

28. In February, 1996, Defendant Interscope Records, distributed under its label, "All Eyez On Me", which is a record containing music performed by deceased Defendant recording gangsta rap superstar Tupac Shakur and produced by Defendant Death Row Records.

29. Contained on the aforementioned recording entitled "All Eyez on Me" are recordings entitled "Wonda Why they Call B" and "How Do You Want It."

30. Contained in the aforementioned recording entitled "How Do You Want It" were lyrics stating "C. Delores Tucker you're a mother fucker, instead of trying to help a brother you destroy a nigga."

31. Contained in the aforementioned recording entitled "Wonda Why they Call B" were lyrics stating "Got your legs up trying to get rich. Keep your head up and your legs closed Dear Ms. Delores Tucker" alluding to prostitution and tells why women are called bitches.

32. In January, 1996, Plaintiff C. Delores Tucker engaged in a lawful protest against the sale of gangsta rap music to minors by Defendant MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania.

33. On March 2, 1996, Plaintiff again, in the exercise of her constitutional right to protest, engaged in a protest on the premises of Defendant, MTS, Inc., under the trade name of Tower Records, in Philadelphia, Pennsylvania to stop the sale to minors of sound recordings containing sexually explicit lyrics as expressly prohibited by 18 Pa. C.S.A. §5903 and 18 Pa. C.S.A. §6301(a). See Exhibits "A" and "B".

34. As a result of her lawful protest, Plaintiff was arrested, handcuffed, and forcibly removed by police from the premises of Defendant MTS, Inc., under the trade name of Tower Records.

35. The aforementioned removal of Plaintiff C. Delores Tucker from the premises of Defendant MTS, Inc., under the trade name of Tower Records, took place under the express direction or with the knowledge and consent of Defendant MTS, Inc., under the trade name Tower Records.

36. Sometime after February 1, 1996, Defendant MTS, Inc., under the trade name of Tower Records, nevertheless offered for sale and sold to minors the aforementioned sound recording entitled "All Eyez On Me", and other gangsta rap albums containing sexually explicit messages, offensively coarse language and lewd and indecent words about Plaintiff C. Delores Tucker.

37. Defendants all participated in various ways, in the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" which contained sexually explicit messages, offensively coarse language, and lewd and indecent words about Plaintiff C. Delores Tucker in violation of 18 Pa. C.S.A. §5504.

38. In August, 1995, Defendant Interscope filed suit against Plaintiff C. Delores Tucker in California charging her, *inter alia*, with Inducement to Breach the Contract between Death Row and Interscope.

39. Defendants knew full well that Plaintiff had done no such thing and filed the false claim only to embarrass her, to cause emotional distress and to deter her crusade against gangsta rap.

40. In May, 1997, the U.S. District Court for the Central District of California (Case No. CV 95-5444), Judge M. Takasugi issued an opinion that there was no breach of contract and that Plaintiff did not induce a breach of the contract as alleged by Interscope, which of course they already knew.

41. Following the lawsuits and the release of the aforementioned recordings, Plaintiff, C. Delores Tucker has reasonable fear for her life because violence and death play a central role in the gangsta rap arena. Indeed, two prominent murders have been reported since the unsolved murder of Tupac Shakur in September, 1996.

42. Since the lawsuits and the release of the aforementioned recordings Plaintiff, C. Delores Tucker has received death threats.

43. The lawsuits and the release of the aforementioned recordings were intended to and did cause Plaintiff C. Delores Tucker severe emotional distress.

44. By using vile and offensive language, the recordings have held her up as an object of scorn to more than 5,000,000 people, including children in Philadelphia and elsewhere.

45. Defendant Co-administrator of the Estate of Tupac Shakur has continued to defame and harass plaintiff by holding her up in a false light even after the complaint in this matter was filed on June 21, 1997.

46. Defendant Fishbein made false and misleading statements regarding the claim herein, through published statements that C.

Delores Tucker filed suit because of a "loss of her sex life." This statement was untrue, and Defendant Attorney Fishbein should have known it was untrue.

47. Since the lawsuits and the release of the aforementioned recordings C. Plaintiff C. Delores Tucker has suffered defamation of character and reputation.

48. Plaintiff, who is frequently called upon to speak at churches throughout the country, is a moral and religious daughter of a well-known, respected Philadelphia minister, now deceased, and has siblings, extensive family, relatives, and thousands of friends in Philadelphia and throughout the country and world, who have heard or heard about the said recording and lawsuits.

49. As a result, Plaintiff C. Delores Tucker, has incurred medical expense; has undergone mental pain, suffering, and inconvenience; loss of life's pleasures; fears for her life; has lost her personal freedom to travel freely where and when she desires; has suffered from insomnia, high blood pressure, severe headaches, weight loss and weakness; and claim is made therefor.

50. As a result of the aforesaid injuries, Plaintiff C. Delores Tucker will incur medical expense; will undergo mental pain, suffering, and great inconvenience; loss of life's pleasures; fear for her life; lose her personal freedom to travel freely where and when she desires; suffer from insomnia, high blood pressure, severe headaches, weight loss and weakness; and claim is made therefor.

51. As a result, Plaintiff C. Delores Tucker has been, and in the future will be, subject to great humiliation and embarrassment, and claim is made therefor.

52. Plaintiff's husband, William Tucker has as a result of his wife's injuries, suffered a loss of advice, companionship and consortium.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT I—PRELIMINARY INJUNCTION

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc. Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Estate of Tupac Shakur, Richard Fischbein as Co-Administrator of the Estate of Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Tupac Shakur, Time Warner, and David Kenner.

51. Paragraphs 1 through 50 are of this Complaint are incorporated herein by reference.

53. Plaintiff C. Delores Tucker has been and will continue to be irreparably harmed by the distribution and sale of the aforementioned gangsta rap recording "All Eyez On Me" by Defendants, for she has incurred medical expense, undergone mental pain, suffering and inconvenience; loss of life's pleasures; fears for her life; has lost

her personal freedom to travel freely where and when she desires; has suffered and will continue to suffer from insomnia, high blood pressure, severe headaches, weight loss and weakness, all as a result of the sale and distribution of aforementioned recording.

54. Therefore, Defendants should be enjoined from the distribution and sale of the aforementioned recording entitled "All Eyez On Me."

WHEREFORE, Plaintiffs respectfully request that this Court enjoin the Defendants from the distribution and sale of the aforementioned recording entitled "All Eyez on Me."

COUNT II—INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Estate of Tupac Shakur, Robert Fischbein as Co-Administrator of the Estate of Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Tupac Shakur Time Warner, and David Kenner.

55. Paragraphs 1 through 53 of this Complaint are incorporated herein by reference.

56. Deceased Defendant Tupac Shakur's conduct as set forth above was extreme and outrageous.

57. As a direct and proximate result of Defendant Tupac Shakur's extreme and outrageous conduct as set forth above, Plaintiff C. Delores Tucker suffered severe emotional distress including but

not limited to, feelings of fright, shock, humiliation, and outrage.

58. As a direct and proximate result of Defendant Tupac Shakur's extreme and outrageous conduct set forth above, Plaintiff C. Delores Tucker suffered from physical manifestations resulting from the aforementioned severe emotional distress including but not limited to insomnia, high blood pressure, severe headaches, weight loss and weakness.

59. Defendants all participated in various ways, including the bringing of lawsuits, submitting Plaintiff Tucker to eleven days of depositions, the conceiving of the idea, creating the recording, the marketing/distributing and not recalling "All Eyez On Me" for the specific purpose of causing Plaintiff C. Delores Tucker to suffer extreme distress, fear for her life, and to lessen her resolve against "gangsta" rap.

60. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton disregard for the safety and well-being of Mrs. Tucker sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand judgment against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT III—SLANDER

C. Delores Tucker and William Tucker v. MTS, Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Robert Fischbein as Co-Administrator of the Estate of Defendant Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Defendant Decedent Tupac Shakur, Time Warner, and David Kenner.

61. Paragraphs 1 through 55 of this Complaint are incorporated herein by reference.

62. Deceased Defendant Tupac Shakur's aforementioned lyrics referring to Plaintiff C. Delores Tucker in "All Eyez On Me" were false and defamatory when produced, marketed, distributed and sold.

63. Deceased Defendant Tupac Shakur's aforementioned defamatory lyrics were produced with malice, meaning that said lyrics were produced with knowledge that they were false.

64. Defendants other than Deceased Defendant Tupac Shakur knowingly participated in the creation, marketing, distribution, and sale of the slanderous recording "All Eyez On Me" and refused to recall same even though there was precedent involving antisemitic lyrics by Michael Jackson.

65. As a result of the malicious lyrics, Plaintiff C. Delores Tucker's reputation has been subject to ridicule, insult, and her reputation damaged.

66. Defendants' actions as set forth above constituted extreme and outrageous conduct that evidence a wanton disregard for the

safety and well-being of Mrs. Tucker sufficient to merit an award of punitive damages, and claim is made therefor.

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

COUNT IV—INVASION OF PRIVACY

C. Delores Tucker and William Tucker v. MTS Inc., t/a Tower Records, Interscope Inc., Interscope Records, Ted Field, James Iovine, Seagram Co., MCA Inc., Death Row Records, Inc., Robert Fishbein as Co-Administratrix of the Estate of Defendant Tupac Shakur, Afeni Shakur as Co-Administratrix of the Estate of Defendant Decedent Tupac Shakur
Time Warner and David Kenner

67. Paragraphs 1 through 65 of this Complaint are incorporated herein by reference.

68. Deceased Defendant Tupac Shakur's lyrics contained in the aforementioned recording "All Eyez On Me" were intentionally created, recorded, marketed/distributed, sold, and not recalled for the purpose of intruding upon the private affairs and concerns of Plaintiff C. Delores Tucker.

69. Defendants all appropriated to their own use and benefit, the name of C. Delores Tucker by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me.".

70. Defendants all participated in various ways in placing Plaintiff C. Delores Tucker before the public in a false light of a kind highly offensive to the reasonable man by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

71. Defendants all participated in various ways in unreasonably and seriously interfering with Plaintiff C. Delores Tucker's interest in not having her name or likeness exhibited to the public by creating, recording, marketing/distributing, selling and not recalling the aforementioned recording "All Eyez On Me."

WHEREFORE, Plaintiffs C. Delores Tucker and William Tucker demand punitive judgement against Defendants in an amount in excess of $10,000,000, exclusive of interest and costs, and in excess of any jurisdictional amount requiring compulsory arbitration.

ANGINO & ROVNER, P.C.
/s/Richard C. Angino, Esquire
Attorney I.D. No. 07140
4503 North Front Street
Harrisburg, PA 17110
Counsel for Plaintiff

Dated: 8/27/97

CERTIFICATE OF SERVICE

I, Shirley Corman, an employee of Angino Rovner, PC, hereby certify that I have this day served a copy of the foregoing Amended Complaint via first class mail, postage prepaid, upon the following:

Michael T. Mervis, Esquire
Paul, Hastings, Janofsky & Walker LLP
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Counsel for Interscope, Inc.; Interscope Records; Ted Field; James Iovine

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Counsel for David E. Kenner, Death Row Records

David W. Ichel, Esquire
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Fischbein•Badillo•Wagner•Harding
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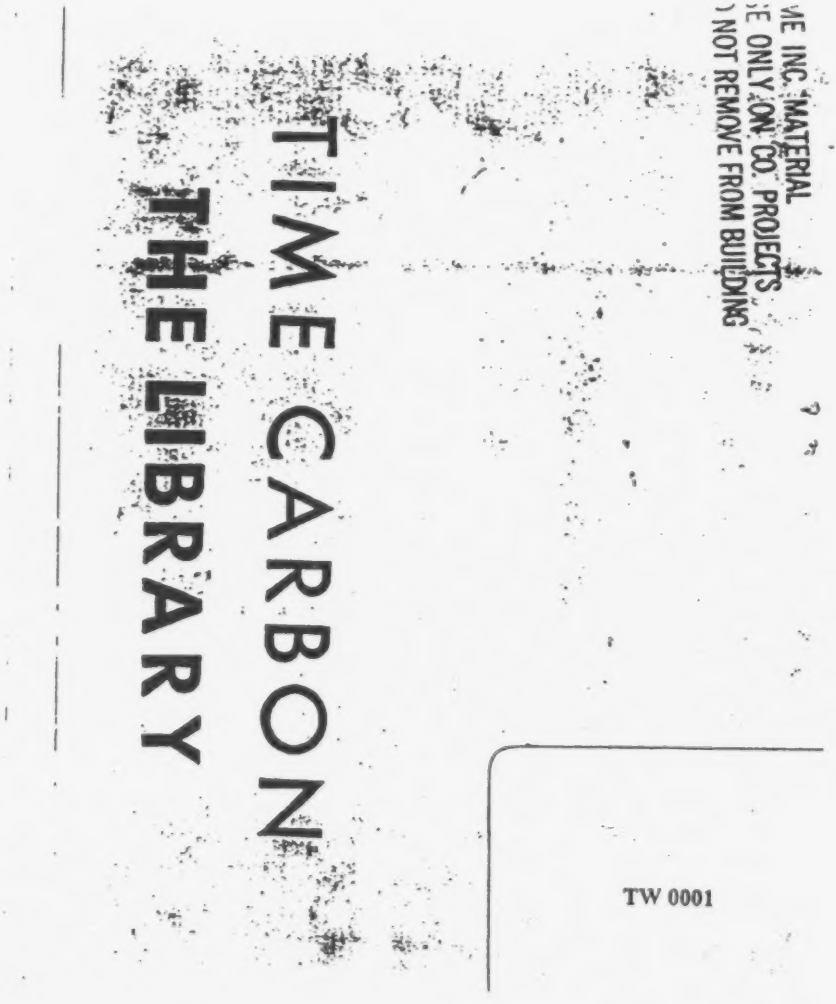
Counsel for Estate of Shupak Shakur

/s/Shirley Corman

Dated: 8/27/97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Rolling Stone Sept 18, 1997 p 33

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ON

Steve Greenberg be-
ended a Hanson show
Kellerville, Kan.
"This is gonna be a
Greenberg recalls. At
ys, "I went around the
men there weren't any
n the corner and that it
And it wasn't."
Greenberg signed them
hooked the boys up
pop music's top song-
writers (among them,
d and Mark Hudson).
Greenberg recently
Dust Brothers (Beastie
and Stephen Lironi
to produce.

nloads an-
sugar pack
l's mouth.
my finger,
came off!"
ams.

ours signed, it was just
saw it in the paper and
ge, 'OK,' " says Zac,
gh his plate of french
s like, when I turn n,
m. 'I'm n.' "
he boys are devout
r album is dedicated to
classes and writers and
ge to grow, to him in
find their purpose").
ove does not address
ne lyrics are meditat-
, feelings and girls –
anyway. Take the gor-
ucy."
cowers," says Taylor.
ce."
ow Schroeder's like,
me?" says Zac. "I'm
? Schroeder. And how
ey, get off my back,'
t, and, in the end, he

songs are really just
tease. "Like, fictional
ituation."
azy "Madeline," says
a chorus of 'Have we
ersound again,' and it
with a name."
another pack of sugar
'I bit my finger, and it
worse.

the band launches into its bouncy
new single, "Where's the Love," the
girls, a blur of gangly legs and color-
ful dresses, shriek loudly. Sometimes it
gets so bad that the Hansons have to
wear earplugs onstage.
Nicole, Jillian and Tim get up at 6 in
the morning to travel here from Staten
Island, NY. "In the 'MMMBop' video,
Taylor's wearing a red shirt," says Nic-
ole. "That's why we all wore red."
Tim's older sister, the chaperone,
comes over to talk. "Lowrent" blares
Tim through disturbed teeth. "Get out
of here!" This is their gig.
"It's really neato, because I get to
meet Hanson," says another fan,
Stephanie. "I said, 'Hi,' and then
they were all like, 'Hi,' and they
waved to me!"
Fifteen or so New York policemen
are here, presumably to prevent stor-
ing. Most are uninterested.
"It sounds like, frickin' like the
Jackson 5 or somethin'," says one.
The nipple-voiced Taylor, especially,
has star quality, but Isaac's Jacksonville
rejoinders show promise, too.
After the show, the three take a
quick break. "These last two days
we've had to get up early for morning
shows," says Taylor. "And tomorrow
we get up at 4 to warm up our voices
for a 7 o'clock radio show. These
days, it's kind of sad, but you usually
want to get back and go home, and go
to sleep."
The group is preparing for a tour,
but it probably won't happen until the
end of the year. "We want to give our
fans their money's worth," says Isaac.
"It's always so unsatisfying when
bands aren't . . . satisfying." (Which
is absolutely true, if you think about
it.) They plan on covering a slew of
tunes from the '70s and '80s. "It's al-
most a shoo-in that we'll do 'Gimme
Some Lovin',' and we're almost defi-
nitely doing 'Shake Your Tail
Feather,' from the Blues Brothers,"
Isaac reports.
But first the guys are heading to
Tulsa for a 10-day vacation. "You've
gotta pass yourself," says Zac. "You
can't just go all-out."
They know they're missing out on
a normal childhood. They don't care.
"All of our friends would just die to
be able to do what we're getting to
do," says Taylor. "A lot of them have
never been to New York or Europe or
even out of their home state. And
we're getting to – not to mansion do
what we love to do, which is sing."
So, tired but enthused, they are off
to Tulsa, where they will play a little
laser tag, go to their beloved arcade
and hit the water park. "We're going
to go to this lake and rent a house –

THOSE SLEAZY, B.A.D.D people
about it. Apparently it's
open season on the debt sup-
port's estate. In July, a woman
– who was shot and paralyzed at
an Arkansas club where Shakur
was performing in 1993 – won a
judgment for $16 million from
Shakur's estate. Attorney
, co-administrator of the
estate, has already filed an appeal.
Next, a battle is brewing between
Shakur's mother,
(the
other co-administrator), and his
once-estranged biological father,
William Garland. Afeni had pre-
dicted for me present of the Shak-
ur estate – estimated at more
than one million – claiming that
Garland was dead. Garland, who
is very much alive, is making half of the
estate. A trial is currently under way.
The last and perhaps most bizarre
claim is from end-of-the-rainbow
, who is suing for no million-

Isn't he lovely? Hill has a baby boy.

-mended sum the band's backup will be a version of "Free Music" recorded with members of the Seattle band
. The song will appear on the bonus CD A Very Special Christmas 3, out on Oct. 7. The singer also appears on the soundtrack for the Dec. 25 film Great Expectations. Cornell's acoustic "Seasoner" is joined by new songs from
, the
, and
, and reunion glimmer twins the
and
and
and
and early
influences. "I've been listening to a lot of
," says Welland. The singer is currently finishing songs for his first solo album, due out early next year. "It's classic pop," says Welland, who also points to
and the first
record as influences. "It's different from an STP record, but it still rocks." Welland will tour after the album's release. —MATT HENDRICKSON

GRAPEVINE

All by myself: Welland (above) and Chris Cornell (right) release solo work.

death." . . . PIGGY LANGTON HILL gave birth to a son, DEE DEE, on Aug. 3. In between 4 a.m. feedings, Hill

BEST AVAILABLE COPY

Gang-Related, will be distributed by the EMI-affiliated Priority Records. However grimly, Death Row has served its purpose and though it could generate millions in revenue on Shakur's posthumous releases and other artists' recordings for years to come, the illusion of a gangsta's paradise has been shattered n

LANGUAGE: ENGLISH

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USA TODAY

August 4, 1997, Monday, FINAL EDITION

SECTION: LIFE; Pg. 2D

LENGTH: 231 words

HEADLINE: Lawsuits go after Shakur estate

BYLINE: Arlene Vigoda

BODY:

The estate of gangsta rapper Tupac Shakur is under attack.

Anti-gangsta rap activist C. DeLores Tucker filed suit in Philadelphia last week, asking for $ 10 million from the slain rapper's estate. She claims two songs on his album All Eyez on Me made derogatory references to her. Tucker alleges that the [illegible] lyrics diminished her [illegible] wife and her husband's [illegible] song the lyrics say, "Got your legs up trying to get rich. Keep your head up and your legs closed, dear Ms. C. DeLores Tucker. "

Also, William Garland, Shakur's biological father, is suing for half of his son's estate, estimated at more than $ 20 million. That case will go to trial today in L.A.

"It's ridiculous," says attorney Richard Fischbein, co-administrator of the estate. "Even though he was a nonexistent, deadbeat dad, he thinks he's entitled to collect money."

And a woman who was shot and paralyzed at a Arkansas club where Shakur was performing sued and won a judgment against the estate for $ 16.6 million. Shakur's lawyers plan to file an appeal Wednesday.

Says Fischbein: "Afeni (Shakur's mother and administrator of the estate) will not settle. She'd rather fight and lose than pay one cent to any of these pirates."

Shakur was shot as he rode in a car near the Las Vegas Strip Sept. 7. He died six days later at a local hospital.

TW 0003

GRAPHIC: PHOTO, B/W, AP

LANGUAGE: ENGLISH

LOAD-DATE: August 04, 1997

Copyright 1997 The Washington Post
The Washington Post

August 02, 1997, Saturday, Final Edition

SECTION: STYLE; Pg. C03; NAMES & FACES

LENGTH: 504 words

HEADLINE: Names & Faces

BODY:
Not-in-the-Mood Music?

Activist C. DeLores Tucker, head of the National Political Congress of Black Women, has sued the estate of slain rap artist Tupac Shakur, saying his lyrics slandered her and damaged her relationship with her husband of more than 40 years, William Tucker.

Tucker and former U.S. drug policy director William Bennett campaigned to stop the distribution of violent and graphic "gangsta" rap and rock lyrics. She sued Shakur's estate for $ 10 million earlier this week in Philadelphia, claiming that Shakur's 1996 CD "All Eyez on Me," which contains derogatory and sexual references to her, caused her "great humiliation, mental pain, and suffering" and contributed to loss of her husband's "advice, companionship and consortium."

"It's hard for me to conceive how these lyrics could destroy her sex life," said Richard Fischbein, an attorney who oversees Shakur's estate.

Bye-Bye, 'B&B'

Beavis and Butt-head, MTV's animated teenagers, have been given the ax.

The last original episode of "B&B" is scheduled to air Oct. 10. MTV and the cartoon's creator, Mike Judge, agreed to call it quits after a four-year run.

"We've always had a great relationship with Mike Judge, but after 220 episodes, we decided it was time to move on," said MTV spokeswoman Sheryl Jones.

O.J. Loses the Piano

O.J. Simpson's piano was hauled out of his home in Los Angeles yesterday.

Copyright 1997 [redacted]
Newsweek

September 1, 1997 , UNITED STATES EDITION

SECTION: BUSINESS; Legal Affairs; Pg. 48

LENGTH: 648 words

HEADLINE: Grabbing at a Dead Star

BYLINE: BY JOHNNIE L. ROBERTS

HIGHLIGHT:
Lawsuits plague rapper Tupac Shakur's estate

BODY:
RAP STAR TUPAC SHAKUR'S ASHES had hardly cooled before the gold rush began. Now, almost a year after his death, his mother is defending the estate from an old lover who turned up to prove he's Tupac's father. An Arkansas court has already awarded $ 16.6 million to a woman who was shot at a Tupac concert. Until a tentative settlement last week, Tupac's label, Death Row Records, was demanding a $ 7 million slice, and its imprisoned CEO wanted millions more. [redacted] "Everybody is trying to get a piece of this," says attorney Richard Fischbein, who administers the estate with Tupac's mother, Afeni Shakur.

As Thomas Mann wrote, "A man's dying is more the survivors' affair than his own." Since Tupac was murdered last September, his multimillion-dollar legacy has become the contentious affair of kin, colleagues and alleged opportunists from L.A. to Australia. In his lifetime, Tupac's profane rap lyrics and violent encounters made him controversial, helping to swell by tens of millions of dollars the coffers of Death Row and its corporate benefactors, Interscope Records, Time Warner and Seagram's Universal (formerly MCA).

Yet Tupac was almost broke when he died. Alleging massive fraud and conspiracy, Fischbein and Afeni Shakur sued Death Row, its jailed CEO, "Suge" Knight, and its lawyer, David Kenner. They owed Tupac at least $ 9.9 million, the suit alleged, and $ 7.1 million more in expenses charged to his account that he hadn't incurred, including $ 120,000 for a house Kenner rented. As of last Friday, the estate was close to settling on its terms, according to Fischbein. Even before that, he adds, there was $ 7 million on hand from royalties and movies. A settlement could ultimately push the estate's value to $ 50 million, estimates one person close to the matter.

The fortune increases the stakes in the ugly probate battle in Los Angeles between Tupac's parents. Tupac had no will, but there seems little doubt that he would have wanted his mother to inherit. The identity of his biological father had always been in doubt. Although Afeni had once been a confessed drug addict, her son loved and supported her, writing a song about her titled "Dear

Mama." But California law requires the estate to be split by the parents if there's no will. Enter William M. Garland, who has established paternity through DNA testing. "Afeni had contended that Tupac's father was dead," says Garland's attorney, Mitchell Reinis. Says Fischbein: "We call it the case of the deadbeat dad. He won't be rewarded for his lack of interest in his son."

The most serious blow to the estate resulted from a 1993 tragedy in Pine Bluff, Ark., in which Jacquelyn McNeasley, 27, was struck by a stray bullet at a Tupac concert. Last November a judge granted damages of $ 16.6 million when Tupac's representatives failed to show at a hearing. Fischbein says Tupac was never properly notified of the lawsuit and that he himself knew nothing of it until he was phoned by MTV after the judgment. The estate is appealing. "The police report totally said Tupac had nothing to do with it," Fischbein says.

Fischbein fairly smirks about the suit by Tucker, a persistent crusader against gangsta rap. On an album last year, Tupac addressed Tucker as a "mother-f--ker," and he suggested that she was a prostitute -- at least that's what she alleges in a lawsuit against the estate, Death Row and others. Among other things, she claims [redacted] humiliated and can no longer have sex with her husband.<Says Fischbein: "I can't wait to hear her testimony on that subject." Her attorney, Richard Angino, says the lyrics "affected the family union." On that note, Tupac will rest in peace.

GRAPHIC: Picture 1, Broke when he died: But the estate could grow to $ 50 million, JEFFREY NEWBURY -- OUTLINE; Picture 2, The critic: Lyrics affected 'family union', MARIO RUTZ -- ZUMA; Picture 3, Death Row boss: Demanding a slice, LAUREN GREENFIELD -- SYGMA; Picture 4, Prodigal dad: DNA proves paternity, LISA TERRY -- GAMMA-LIAISON

LANGUAGE: ENGLISH

LOAD-DATE: September 02, 1997

407a
Appendix

FOCUS - 2 OF 33 STORIES

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THE ORLANDO SENTINEL

September 19, 1997 Friday, METRO

SECTION: RAVE; Pg. X3

LENGTH: 480 words

HEADLINE: ITS BEEN AN EVENTFUL YEAR SINCE SHAKURS DEATH

BYLINE: Amar Shah - Dr. Phillips High

BODY:
Did you hear about the rose that frew form the crack in the concrete. Proving that natures law is wrong, it learned to walk without having feet. Funny it seems, but by keeping its dreams, it learned to breathe fresh air. Long live the rose that grew from the concrete when no one else cared.

2Pac

Tupac Amaru Shakur was that rose. As the seed began to germinate, the conditions surrounding his upbringing became an unrelenting interval of violence and poetic justice. The murder, the guns and the drugs all contributed to the growth of thorns from its stem.

The seed eventually blossomed into a rose, which gave way to many admirers and many critics. The rose in the concrete attempted to thrive in the conditions in which it was born, but it was too much. The petals began to fall to the ground. Finally, the last petal waned delicately toward the earth.

As the people walk past the rose in the concrete, they dont see the beautiful petals that once bloomed from the flower; they only see the thorns in their memories.

On September 13, 1996, the clock read 4:03 p.m. at a hospital in Las Vegas as Shakur took his last breath and the wounds from his bullet-ridden body took their toll. One year later, the legacy and the memories of his musical and poetic talents lay submerged in a pool of legal battles.

The weeks that followed after Tupacs death were full of conspiracy theories and rumors that he was still alive. The Los Angeles Police Department said witnesses did not cooperate with them and their investigation, when in fact, there was an abundance of spectators who witnessed the shooting.

To this day, the case remains open and idle. The investigation has not brought anything new to the surface.

Though Tupac is no longer living, in the business world he lives on. More than 150 unreleased songs valued at $100 million are tied up in courtroom

battles with Death Row Records.

[redacted] Tucker, [redacted] pain. Such a lawsuit like that should not even be allowed into the court system.

Though the legacy of Shakur has been hit from every angle since his demise, somehow his music lives on and the movies keep playing. With two unreleased albums and a new movie on the way, Shakur will not be far from the minds and hearts of his fans.

Perhaps the most electrifying endeavor of Shakurs work is a book of 150 poems he wrote that will be released in the upcoming year. The world now will see the poetic talent he possessed.

Where the rose in the concrete once stood, a garden is now built. A potpourri of flowers has emerged and now the legacy of the rose has forever left its mark.

GRAPHIC: PHOTO: Tupac Amaru Shakur

LANGUAGE: ENGLISH

LOAD-DATE: September 19, 1997

8 FOCUS - 8 OF 33 STORIES

Copyright 1997 Newspaper Publishing PLC
The Independent (London)

August 29, 1997, Friday

SECTION: FEATURES; Page 10

LENGTH: 1403 words

HEADLINE: Rap's off; Death Row, the late Tupac Shakur's record label, is going down in a blaze of gunfire, drug-trafficking and money-laundering. And that's not just the songs.

BYLINE: Edward Helmore

BODY:
Death Row, the record label that became synonymous with the hardcore music of gangsta rap and was at one point hailed as the Motown for the Nineties, is itself on death row. The fate of the LA-based company that once boasted the combined artistic and financial might of the late Tupac Shakur, Dr Dre and Snoop Doggy Dogg has been in the balance ever since Marion "Suge" Knight - the brains and, at 6ft 4in and 330lb, the brawn behind the label - was sentenced to a lengthy jail-term last December.

Since it was founded by Knight and Andre (Dr Dre) Young in 1992, Death Row has sold 26 million records and grossed in excess of $ 170m, but with Knight in prison, Shakur dead and Dr Dre defected to start his own Aftermath label, the record label is beset with mounting legal problems - including an FBI investigation into suspected drug ties.

Last week it emerged that Death Row is almost certain to be jettisoned by its distributor, the Universal Music Group, a company owned by the heir to Seagram distillers, Edgar Bronfman, after pressure from shareholders and regulators.

"The fundamental problem with Death Row is that those guys watched The Godfather one too many times," says a source familiar with the business. "Now, the whole thing is in shambles and there's nobody running it. Who needs to be in business with a label that is being investigated by the FBI and the IRS?"

As Death Row's long-feuding East Coast rival Bad Boy Entertainment dominates the charts with more mainstream records by Puffy Daddy, the label that has been calling itself "the new and untouchable Death Row" seems unable to find hits. This month, Lady of Rage's "Necessary Roughness" plunged to the bottom of the top 200 within weeks of release. Neither is the label finding new acts easy to

come by. A deal with the pop rapper-turned-wannabe- gangsta MC Hammer fell through and the deputy District Attorney in Los Angeles is under investigation for a conflict of interests after his daughter Gina Lange was signed up.

No one at the label knows when slated albums will be released and its last remaining major star, Snoop Doggy Dogg, has postponed a mid-summer release for an undetermined date in the future and is understood to be trying to get off the label altogether. Simply, Death Row has been left behind by the times and it is unlikely to match the success of past triumphs like Shakur's Don Killuminati: The 7 Day Theory, which sold 664,000 in its first week of release.

"The energy of the hip-hop scene is to clean it up and make it mainstream. There is a desire in the African-American community to function at the very centre of American culture," says the rock writer Anthony DeCurtis. "It gets lonely out there on the margins. However much money you are making, being both a target for social reformers and simply a target has worn people out."

And the fortunes of the once-glittering label may dull further - the US Justice Department is investigating Knight and others associated with the company for alleged tax violations and links to street gangs, drug- trafficking, money-laundering and violent acts. The investigation is looking all the way back into whether the seed money used to launch Death Row came from the Los Angeles drug kingpin Michael "Harry-O" Harris, currently in jail for drug dealing and attempted murder. According to the New Yorker, Harris's lawyer David Kenner was instrumental in setting up the label but acts for Knight and helps run the business.

Though the Justice Department will not confirm or deny the existence of the racketeering investigation and its conclusion could be months away, it could result in criminal charges and the label's assets being seized by the authorities, an unprecedented action in the music industry.

The music business has long been home to shady dealings and some in the industry credit Knight with organising the violent world of gangsta rap into a profitable business, but as Death Row has unraveled, more of Knight's bizarre and often threatening business practices are coming to light.

Earlier this year, the white rapper Vanilla Ice told how Knight had forced him to sign over his publishing rights in the late Eighties by dangling him by his feet off a high-rise building. Though Knight denies using such tactics, a suit filed by Ruthless Records alleges that in 1991 he threatened to beat the late rapper and label-owner Easy-E with lead pipes unless he released the creative force of Dr Dre from his existing contract.

As Death Row and the popularity of gangsta rap rapidly grew, Knight did nothing to curb his penchant for strong-arm tactics. The walls of his offices were painted red in a clear signal of his ties with the Bloods street gang, and in 1992 he was convicted of assault for drawing a gun on two rappers, pistol-whipping one and threatening to kill both. In another incident, a New York record producer was forced to strip naked and was beaten with Champagne bottles.

411a
Appendix

But as long as profits rolled in - a reported $ 100m in 1995 - the industry seemed happy to turn a blind eye. The problems began when Death Row's distributor Time-Warner came under pressure from shareholders after an outcry over the flagrantly violent and misogynistic lyrics that gangsta rappers like Snoop Doggy Dogg and Tupac Shakur tended to favour.

Time-Warner dropped both Death Row and its affiliate Interscope, which were then picked up 18 months ago by the Universal label for $ 200m with an option not to release any music it deemed objectionable. The money continued to roll in but gangsta rap was already beginning to show signs of overkill.

In March 1996, Dr Dre shed his gangsta skin, renounced the music's violent message, and severed his ties with Knight. To many, that was the end of Death Row but then, in September last year, the label's brightest star, Tupac Shakur, riding in Knight's white BMW, was murdered in Las Vegas after a Mike Tyson-Bruce Seldon fight. The killing, widely thought to be the work of a member of LA's In-Hood Crips gang, remains unsolved.

In March this year, Knight was convicted of breaking his probation by participating in a ringside brawl with members of the rival Crips gang on the night of Shakur's shooting and was sentenced to nine years in prison and disqualified from running the business. Death Row has since cut its staff by half and is being run by an associate of Knight with little music business experience, while the label's accountant is reportedly in hiding following death threats after company funds went missing.

Institutional creditors are also eager to know where the money has gone. Knight and Konner are being sued by American Express for $ 1.7m they ran up on platinum cards, and Afeni Shakur, Tupac's mother and a former Black Panther, is claiming $ 150m in damages from Death Row/Interscope after she discovered that her son died $ 4.9m in debt.

His estate is estimated to be worth $ 50m and the suit alleges that Tupac was owed at least $ 9.9m and $ 7.1m more in expenses he had not incurred, including $ 120,000 for a house Konner rented for himself and $ 23,000 for repairs to Knight's Porsche.

Perhaps the strangest legal action to be brought against Shakur's estate by C. Delores Tucker, the chairwoman of the powerful National Congress of Black Women and a longtime gangsta rap foe. She is looking for damages after claiming that Shakur called her a "motherfucker" on his last album, a slight that Tucker claims has ruined her 69% life with her [illegible].

With Death Row in chaos the label no longer holds much appeal and there are few reasons for Universal to retain the alliance. Moreover, it is in the financial interests of Universal's parent company, Seagram, to drop the label: this month, two state pension funds, Texas and Maryland, announced they might pull their investment in any company - namely Seagram - that distributes gangsta rap.

Still, other distributors are keen to step in. Two upcoming Death Row releases, Nate Dogg's "G-Funk Classics" and the soundtrack to the film

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The Baltimore Sun

August 2, 1997, Saturday, FINAL EDITION

SECTION: FEATURES, Pg. 2D, People And Places

LENGTH: 598 words

HEADLINE: Foe of gangsta rap claims it undermined her conjugal relations

SOURCE: From wire reports

BODY:

One of America's most outspoken foes of gangsta rap says Tupac Shakur's crude lyrics about her have wrecked her sex life.

C. DeLores Tucker sued Shakur's estate for $ 10 million this week in federal court in Philadelphia, saying the slain rapper's 1996 double CD "All Eyez on Me" caused her "great humiliation, mental pain and suffering."

She feels the vulgarity voiced by Shakur's conjugal relationships have undermined her sex life with her husband.

Richard Fischbein, co-administrator of Shakur's estate, said, "It's hard for me to conceive how these lyrics could destroy her sex life."

'Friends' can cost you, a network learns

"Friends" will be there for NBC -- but it will cost the network nearly $ 4 million per episode, sources say.

The network confirmed that it has negotiated a deal with Warner Bros. TV to secure broadcast rights to the show through season No. 8, or 1999-2000. The current contract would have run out at the end of this coming season.

Meanwhile, creator-producers Marta Kauffman, Kevin Bright and David Crane are said to be on board for the show's six-year duration through their lucrative deals with WSTV and NBC, though they are now dividing their time between "Friends" and their new NBC sitcom, "Veronica's Closet."

John F. Kennedy Jr. throws aviation fans for a loop

People at an aircraft convention were flying high after John F. Kennedy Jr. dropped in.

Kennedy, a self-described "lapsed pilot," toured the Experimental Aircraft Association Fly-In Convention Thursday in Oshkosh, Wis., drawing more attention than the antique planes and daredevil acrobats in flight.

"It's like a dream come true," said a gasping Jean Jovsag, 69, who met

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Jet

September 1, 1997

SECTION: ENTERTAINMENT; Pg. 62

LENGTH: 383 words

HEADLINE: C. DeLores Tucker Files $ 10 Million Lawsuit Against Tupac Shakur's Estate

BODY:

Dr. C. DeLores Tucker, an outspoken critic of gangsta rap, has filed a $ 10 million lawsuit against the estate of the late rapper Tupac Shakur charging that he made derogatory comments about her in his music.

Dr. Tucker, chair of the National Political Congress of Black Women Inc., says songs on Shakur's hit album All Eyez On Me have caused her "mental pain, suffering and inconvenience."

The suit also notes because of Shakur's music, Dr. Tucker has "suffered severe emotional distress including, but not limited to, feelings of fright, shock, humiliation and outrage."

On the tune Wonda Why They Call U B h Shakur raps: "Get your legs up trying to get rich. Keep your head up and your legs closed Dear Ma. Delores Tucker." Dr. Tucker states in the suit that the lyrics allude "to prostitution and tells why women are called bitches."

On the tune How Do You Want It Shakur raps: "C. Delores Tucker ... instead of trying to help a brother you destroy a nigga."

The suit filed jointly by Dr. Tucker and her husband, businessman William Tucker, states that Mr. Tucker "as a result of his wife's injuries, suffered a loss of [illegible]."

The suit, which alleges intentional infliction of emotional distress, slander and invasion of privacy, was filed in the U.S. District Court for the Eastern District, Pennsylvania. It also names Tower Records of Philadelphia; Interscope and Death Row Records of Los Angeles; Ted Field and James Iovine, officials of Interscope, Time Warner, Seagram Co., MCA Inc. and others.

Dr. Tucker said in a press statement that Shakur's album All Eyez On Me, released in 1996, "specifically defamed me in a most degrading way. It called me a personal obscenity . . . for fighting against this music. And I feel that those who produce and promote this recording all over the world are equally

TW 00013

guilty of defamation."

She added, "Not only have I been defamed, I feel thousands of young women have been defamed by this greed-driven, race-driven and drug-driven music. This sexist lyrical filth particularly defames Black women, promotes drug use, violence and panders pornography to children," she stated.

Shakur was killed in a drive-by shooting in Las Vegas last year (JET, Sept. 30, 1996).

GRAPHIC: Picture 1, C. Delores Tucker; Picture 2, Tupac Shakur

LANGUAGE: ENGLISH

LOAD-DATE: September 08, 1997

People

SEP 22 1997

Shakur
Booty

Shakur Booty

Here's a new growth industry: [redacted] since his death, at least five suits have been brought against his estate, the most recent by a suspect in his murder. Last week [redacted] filed a personal injury suit claiming he was beaten up by [redacted] and friends hours before the rap star was killed. [redacted] lawyer, Richard [redacted], immediately fired back with a wrongful death lawsuit against [redacted]. Earlier, Shakur's mother, [redacted], won control of Shakur's master recordings from [redacted] Records, and settled a claim that the estate owed the company more than $7 million. An Arkansas woman's award of $16.6 million after being shot and paralyzed at a Shakur concert, is being appealed. Even Shakur's father is suing for a cut. The prize for the most bizarre suit, however, goes to anti-rap yearner [redacted], who claims that lewd remarks made about her on Shakur's album [redacted] caused her so much distress she and her husband have not been able to have sex. She wants $10 million.

Anderson

TW 00015

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - SOUTHEAST JUDICIAL DISTRICT

[redacted], individually and as Co-administrator of the Estate of Tupac Shakur, deceased; and RICHARD S. FISCHBEIN, as co-administrator of the Estate of Tupac Shakur,	CASE NO.
Plaintiffs,	COMPLAINT FOR DAMAGES: 1. WRONGFUL DEATH 2. PERSONAL INJURY 3. GENERAL NEGLIGENCE
-vs.-	
[redacted] JERRY BONDS, and JOHN DOES 1 to 100, inclusive,	
Defendants	

COME NOW the Plaintiffs AFENI SHAKUR, individually and as the co-administrator of the Estate of Tupac Shakur, and [redacted] as co-administrator of the Estate of Tupac Shakur, and for their causes of actions against the defendants allege as follows:

THE PARTIES

1. Plaintiff AFENI SHAKUR ("Afeni") is the mother of the deceased Tupac Shakur. ("Tupac") During all times mentioned herein, Tupac was a resident of Los Angeles County, State of California.

TW 00016

2. Pursuant to Letters of Administration of the Superior Court of California, County of Los Angeles, dated October

23, 1996, Afeni was appointed co-administrator of the Estate of Tupac Shakur (the "Estate").

3. Pursuant to Letters of Administration of the Superior Court of California, County of Los Angeles, dated October 23, 1996, RICHARD S. FISCHBEIN ("Fischbein") was appointed co-administrator of the Estate.

4. Defendant ORLANDO ANDERSON, ("Anderson") is at all times mentioned herein, a resident of the State of California. Plaintiffs are informed and believe and thereupon allege that at all times mentioned herein, that Anderson was a member of a Compton street gang known as the Southside Crips.

5. Defendant JERRY BONDS, ("Bonds") is at all times mentioned herein, a resident of the State of California. Plaintiffs are informed and believe and thereupon allege that at all times mentioned herein, that Bonds was a member of a Compton street gang known as the Southside Crips, and is known by the street name "MONK."

TW 00017

6. Plaintiffs have reason to believe and thereupon allege Defendants Bond, JOHN DOES 1 to 3, inclusive, and Anderson were, on or about September 7, 1996, the driver and passengers in a certain white Cadillac vehicle discussed with more particularity hereinafter. Plaintiffs have reason to believe and thereupon

allege JOHN DOE 1 was also the individual with Bond on September 11, 1996, at approximately 3:00 p.m., when Bond and Doe #1 drove a late model Cadillac into the automotive shop at White and Alondra.

7. Plaintiffs have reason to believe and thereupon allege the Bond and Anderson are cousins.

8. Plaintiffs have reason to believe and thereupon allege, that JOHN DOES 4 to 100, inclusive, participated with Defendants Anderson and John Does 1 to 3, inclusive, in the shooting of Tupac as more fully described hereafter, and conspired with and assisted Defendants Anderson and John Does 1 to 3, inclusive, in that shooting.

9. Plaintiffs are presently unaware of the true names and identities and/or capacities of defendants named herein as DOE, including Does 1 to 100, inclusive, and therefore sue said defendants by such fictitious names pursuant to California Code of Civil Procedure §474. Plaintiffs will allege the true names and capacities after the same have been ascertained. Plaintiffs are informed and believe and thereupon allege, that each defendant Doe is negligently or otherwise responsible and liable to Plaintiffs for the injuries and/or damages alleged herein. TW 00018

10. Plaintiffs are informed and believe and thereupon allege that at all times mentioned herein, each defendant herein,

whether designated by name or by Doe, were the agents, employee, employer and/or joint venturer or co-conspirator with each of the other defendants and in doing the things alleged herein were acting in the course and scope of such relationship, agency and employment and for the furtherance of such conspiracy, and were acting with the prior knowledge, permission and consent, or if not prior, each of said defendants acquiesced to the conduct of each of the other defendants.

GENERAL ALLEGATIONS

11. During his lifetime, Tupac was an extremely successful music publishing, recording and performing artist, as well as being a successful motion picture actor.

12. Among the albums published by Tupac during his lifetime were: "Thug Life," "Strictly 4 My N.I.G.G.A.Z.," "2Pacalypse Now" and "All Eyez On Me." Subsequent to Tupac's death, Death Row released "Makavelli," an album that immediately became number one on the charts and sold over 3 million copies.

13. Tupac appeared as an actor in "Juice," "Above the Rim," "Poetic Justice" and "Bullet." Subsequent to his death, "Gridlock'd" was released to favorable and critical reviews and "Gang Related" is scheduled to be released this fall.

14. Moreover, his songs were featured in numerous soundtracks from movies in which he did not appear as an acter.

EVENTS LEADING UP TO THE SHOOTING

15. Plaintiffs have reason to believe and thereupon allege that, in approximately July, 1996, Travon Lane (who goes by the street name "Tray")("Lane"), a person associated with Death Row Records, Inc. ("Death Row"), was in the Foot Locker Store in the Lakewood Mall, with Kevin Woods (who goes by the street name "K.W.")("Woods") and Maurice Combs (who goes by the street name "Lil Mo") ("Combs")

16. Plaintiffs have reason to believe and thereupon allege that Lane, Woods and Combs are associated with a street gang that goes by the name of "Mob Pirus," which is a branch of the street gang known as the "Bloods."

17. Plaintiffs have reason to believe and thereupon allege the Southside Crips have an ogoing rivalry with the Mob Pirus and that there have been several past confrontations between the Mob Pirus and the Southside Crips.

18. Plaintiffs have reason to believe and thereupon allege that there was a common perception that Death Row was in some manner affiliated with the Mob Pirus.

30. The caravan stopped for a red light at Flamingo and Las Vegas Boulevard, when a white Cadillac pulled up next to Tupac and Suge.

31. There were at least two, and possibly more, people in the Cadillac.

32. Plaintiffs have reason to believe and thereupon allege that Bonds was the driver of that Cadillac and Anderson was a passenger in the Cadillac.

33. Plaintiffs have reason to believe and thereupon allege that Anderson got out of the Cadillac and approached the BMW on the passenger's side.

34. Plaintiffs have reason to believe and thereupon allege that upon approaching the BMW, Anderson pulled a gun and started shooting at the BMW, willfully or negligently striking both Tupac and Suge.

35. Tupac was taken to the University Medical Center of Southern Nevada immediately after the shooting and was admitted to the UMC Regional Trauma Center.

36. Tupac injuries included a gunshot wounds to the right chest, the right thigh and the right hand.

37. Tupac died on September 13, 1996. Plaintiffs have reason to believe and thereupon allege that Tupac died as a result of the gunshot wounds he suffered in the shooting by Anderson.

FIRST CAUSE OF ACTION - WRONGFUL DEATH
AGAINST ALL DEFENDANTS

38. Plaintiffs incorporate paragraphs 1 to 37 and reallege the same as if fully set forth at length herein.

39. On or about or about September 7, 1996, Anderson discharged a gun in a willful and negligent manner, causing Tupac to be shot and thereby causing him serious grievous injuries requiring hospitalization and leading to his eventual demise on September 13, 1996.

40. The discharge of that gun was a part of, and in furtherance of, a conspiracy and joint venture to do injury to Tupac, Suge and Death Row in which Anderson, Bonds and Does 1 to 100, inclusive, were participants.

41. Prior to the death of Tupac, Afeni was totally dependent on him for her support and maintenance. As a result of the injuries to the decedent and his eventual death, Afeni has sustained special and general damages, including hospital bills, loss of income, loss of society, comfort, attention, service and

support of decedent, and have incurred funeral and cremation expenses.

SECOND CAUSE OF ACTION - FOR PERSONAL INJURY
(SURVIVAL ACTION)
PLAINTIFFS AFENI SHAKUR AND RICHARD S. FISCHBEIN,
AS CO-ADMINISTRATORS OF THE ESTATE OF TUPAC SHAKUR
AGAINST ALL DEFENDANTS

42. Plaintiffs incorporate paragraphs 1 to 41 and reallege the same as if fully set forth at length herein.

43. As a result of said injuries, Tupac Shakur, the decedent, was taken to the hospital and there suffered extreme pain, discomfort and injury from the moment of his injury to the moment of his death. In addition thereto, the decedent and his estate incurred medical bills for his hospitalization and lost earnings and loss of income from the date of his injury to the moment of his death.

44. The decedent during his life time was entitled to compensation for the damages described in the above paragraph and Plaintiffs Afeni Shakur and Richard S. Fischbein, as co-administrators, are claiming said damages for his estate.

THIRD CAUSE OF ACTION - FOR GROSS NEGLIGENCE
PLAINTIFF AFENI SHAKUR
AGAINST ALL DEFENDANTS

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TEXT
PM-Tupac's Legacy, Bjt,1052
Gangsta rapper lives on — in courtrooms, law offices
Eds: Sent Aug. 28 as b0107. Note language in 11th graf, "Two songs ..."
AP Photo NY343 sent Aug. 26
By LARRY McSHANE
Associated Press Writer
NEW YORK (AP) — Tupac Shakur, incarcerated before his birth and murdered before his 25th birthday, spent much of his too-short life outside the law. His tattooe proclaimed his philosophy: "Outlaw" on his left forearm, "Thug Life" across his torso.
His death has changed all that.
The gangsta rapper's unlikeliest legacy, forged in the year since his still-unsolved slaying, is legal, not musical — a litany of coast-to-coast litigation that could drag on for years.
Shakur lives on in the staid world of courtrooms and countersuits, law offices and legal papers. His posthumous alter ego is a white Manhattan attorney — Richard Flechbein, co-executor of the Shakur estate.
Even Shakur's unreleased music — more than 180 songs, valued at $100 million — is tied up in a court battle. Flechbein says he expects more "vultures" to "come out of the woodwork."
"Tupac has an estate," Flechbein explains bluntly. "He's dead. People see a payday."
Flechbein and Afeni Shakur, who gave birth to the slain rapper one month after her acquittal in a 1971 conspiracy trial, became co-executors on Oct. 23, 1996. Since then, the flow of lawsuits has been as hard and relentless as Tupac's lyrics:
—A $7.1 million suit by Death Row Records, demanding reimbursement for cash advances that Shakur allegedly used for cars, houses, jewelry and other expenses. The estate filed a 41-page countersuit, accusing Death Row of losing $50 million from Shakur to maintain the extravagant lifestyles of label head Marion "Suge" Knight and other executives.
More important than cash is control of at least two unreleased Shakur CDs and 152 additional unreleased songs. Death Row currently has custody of the master tapes. A Death Row spokesman and label attorney David Kenner both declined to comment on the legal fight. Knight is serving a nine-year jail term on a probation violation.
—A $10 million lawsuit by C. DeLores Tucker, a virulent opponent of gangsta rap. Tucker, who once labeled Shakur's music "pornographic scrud," claimed lyrics on Tupac's 5 million-selling album "All Eyez on Me" were so harrowing that it affected her sex life.
Two songs derisively mentioned Tucker by name. On one, "How Do U Want It," Shakur rapped: "DeLores Tucker, you'se a (expletive)/instead of trying to help a nigga, you destroy a brother."
Tucker did not returns calls to her Washington office. But in her lawsuit, she alleged Shakur had caused her "great humiliation, mental pain and suffering" — and damaged her sexual relationship with her husband, William.
—A contentious lawsuit filed by the rapper's father, William Garland, seeking 50 percent of Tupac's estate. Afeni Shakur angrily charged that Garland was a gold-digger who ignored his son for 18 years; Garland blamed her nomadic lifestyle for making it impossible to find Tupac.
"I'm the only person in here who lost somebody," Ms. Shakur snapped in early August. "He don't even know my son's birthday."
Garland's lawyer, Leonard Birdsong, rips Ms. Shakur as "an egomaniac" upset by publicity for Tupac's father. He also mentions her past crack addiction and alcohol problems; Tupac had said those woes forced him to leave his mother's house at age 17.
Flechbein dismisses Garland as "a deadbeat dad" who gave his son "$500 and a bag of

peanuts over the course o[illegible] his life." Birdsong indignantly cha[illegible]a Fischbein with "rewriting history to vilify my client." Garland only filed suit after Ms. Shakur twice submitted legal papers saying Tupac's father was dead, Garland says.

This parental struggle could give birth to another lawsuit. If he wins, Garland wants to be named the estate's co-executor.

—A November 1996 court award of $16.6 million to Jacquelyn McNeasley, who was shot and partially paralyzed at a 1993 Shakur concert in Pine Bluff, Ark. Fischbein is vigorously trying to set aside this judgment; the estate's Arkansas court papers carried the names of 17 attorneys, and asserted that Shakur was never ever notified of this lawsuit.

—A successful lawsuit by the estate to gain merchandising rights to Shakur's image. Previously, it received nothing from the lucrative sales of Shakur T-shirts, hats and other memorabilia.

There remain a handful of "smaller, irrelevent" lawsuits — including a libel suit stemming from another lyric on Shakur's last album, "The Don Killuminati" — that are unresolved, Fischbein acknowledges.

What the plaintiffs lined up at the Tupac trough may not know is that the rapper, whose last two albums sold more than 8 million copies, left very little behind.

Tupac's bank account contained $180,000 when he died at 4:03 p.m. on Sept. 13, 1996, six days after he was shot on the Las Vegas strip. "He owned no real estate," the estate claimed in court papers. "He owned no stocks and bonds. He owned two cars."

Where was the money? The estate's lawsuit against Death Row alleges the label should have provided him with $12 million royalties on the album "All Eyez on Me" and a $5 million advance on his next album.

Instead, with Shakur locked up by a handwritten three-page contract that he'd signed in prison, Death Row refused to provide Shakur with any financial accounting, the estate says.

Even worse, Death Row allegedly charged Shakur for items that the rapper never owned or knew about: $115,000 for jewelry, $120,000 in rent for a Malibu home, $23,857 for Porsche repairs. Shakur didn't own a Porsche; Knight did.

While Fischbein is bemused by some of the lawsuits — "C. DeLorse Tucker? Who ever expected that?" — he takes the estate very seriously. And he expects the battles to rage for years.

Afeni Shakur, he says, is "very, very tough and single-minded."

"She never expected her son to die before she did," Fischbein says. "She's never going to give in on any of this stuff — never. From her point of view, this could go on forever."

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Tucker Claims Tupac Ruined Her Sex Life

by Marcus Errico
August 1, 1997, 1:15 p.m. PT

We all know that self-appointed morality maven [illegible] isn't a big fan of gangsta rap. After all, she and former drug czar William Bennett have been trashing rap music and performers since 1994, when they strong-armed Time-Warner into dumping Interscope Records--distributor of [illegible] home of Snoop Doggy Dogg and Tupac Shakur. More recently the duo, along with sometime cohort Senator Joseph Lieberman, has blasted Seagram-owned Universal, Bertelsmann, Sony, Thorn-EMI Music and PolyGram for releasing "pornographic smut" music.

Now, Tucker is back on her anti-rap soapbox, but this time, it's personal. Nearly a year after the death of Shakur, she's claiming the slain hip-hop star has ruined her sex life.

In a lawsuit filed this week in Philadelphia federal court, Tucker contends the rapper dissed her repeatedly on his 1996 mega-selling [illegible] LP. She claims lyrics on the double-disc set defamed her, causing her "great humiliation, mental pain and suffering," and hubby, William, "to suffer a loss of advice, companionship and consortium." She's suing for slander, infliction of emotional distress and invasion of privacy and asking for $10 million in damages.

Some have questioned the timing of the lawsuit--filed almost a year after Shakur was gunned down near the Las Vegas strip. Others, including an attorney who is co-administrator of the rapper's estate, are baffled by the allegations. "It's hard for us to conceive how these lyrics could destroy her sex life," Richard Fischbein told the Los Angeles Times. "But we can only wait for the proof to be revealed in court."

Two "lewd and indecent" songs in particular have peeved Tucker and her husband: "Heads Why They Call U Bytch" and "How Do U Want It." According to the suit--which also names Shakur's estate, mother Afeni Shakur, Death Row Records, Interscope Records, Time Warner, Seagram, Tower Records and others--one rap alludes to the rap critic partaking in the world's oldest profession: "Get your legs up trying to get rich. Keep your head up and your legs closed, dear Ms. C. Delores Tucker."

Audio Clip: 2Pac, "Heads Why They Call U Bytch"
RealAudio | Install It

Tucker, who heads the National Political Congress of Black Women, a Washington, D.C., lobbying group, calls herself a "moral and [illegible]

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minister' in her suit. However, her reputation has come under fire by accusations that she once profited from ownership of slum properties in Philadelphia.

She has been wrangling in court with Death Row and Interscope for the last two years. Civil lawsuits filed in August 1995 by Death Row and Interscope accused Tucker of contractual interference and suggested she had an economic motive for criticizing rap.

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Tupac Shakur's Estate Sued--Again

by Joal Ryan
September 19, 1997, 5:43 p.m. PT

Will the person not filing a claim against the estate of Tupac Shakur, please call your lawyer: He's wondering what's taking so long.

As the one-year anniversary of the actor-rapper's death approaches Saturday, the once-promising artist's legacy is lost in a sea of lawsuits--the latest of which was filed Monday by no less than a onetime suspect in the Shakur murder.

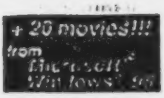
Orlando Anderson, a reputed member of Los Angeles' notorious Crips street gang, claims he suffered physical injuries, as well as emotional and mental distress, when Shakur and Death Row Records employees beat him up in the lobby of a Las Vegas hotel on September 7, 1996. The attack, captured on hotel security cameras, occurred shortly before Shakur, riding in a BMW powered by Death Row mogul Marion 'Suge' Knight, was ambushed by unknown assailants just off Vegas' famed Strip. Shakur, hit with four bullets, died six days later. He was 25.

Anderson was taken into custody by Las Angeles police last October 2 during a gang raid related to the Shakur investigation. He was released two days later--no charges filed. But as recently as February of this year, Las Vegas authorities still reportedly considered him a suspect in the still-unsolved case.

An attorney for Anderson denies the man played any role in Shakur's murder. And indeed, by filing the lawsuit, which seeks unspecified damages, Anderson isn't lying low--rather, inviting scrutiny of his Tupac connection. Anderson's complaint also names Death Row and Knight, now in jail for a parole violation relating to the hotel assault, as co-defendants.

The Anderson case joins a stampede of Shakur-related litigation, including:

- An Arkansas woman who wants the estate to fork over $16.6 million--the amount of a judgment awarded her by a court in her home state for injuries suffered at a Shakur concert in 1993. (The woman was shot and, subsequently, paralyzed.)
- Prominent gangsta-rap foe C. Delores Tucker who wants $10 million because, she alleges, Shakur made swipes at her on his 1996 album, All Eyez on Me, thereby ruining her sax life.
- Embattled Death Row Records which wants $7.1 million--reimbursements, it says, for advances Shakur received to buy cars, houses and jewelry.



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The sad punch line here is that when Shakur died his bank account read: $150,000.

The ledger may have recently evened out a bit. Knight reportedly settled a lawsuit (yes, another one) with Afeni Shakur, Tupac's mom and co-executor of his estate. The deal gave the Shakur camp control of 150 master recordings, worth an estimated $100 million on the retail market.

Oh, good. Now there'll be something at stake when Tupac's dad, William Garland, pursues (you guessed it) his lawsuit against Afeni Shakur for control of his son's money.

FIRST LOOK: Two Stories

Superman Coin Engaged

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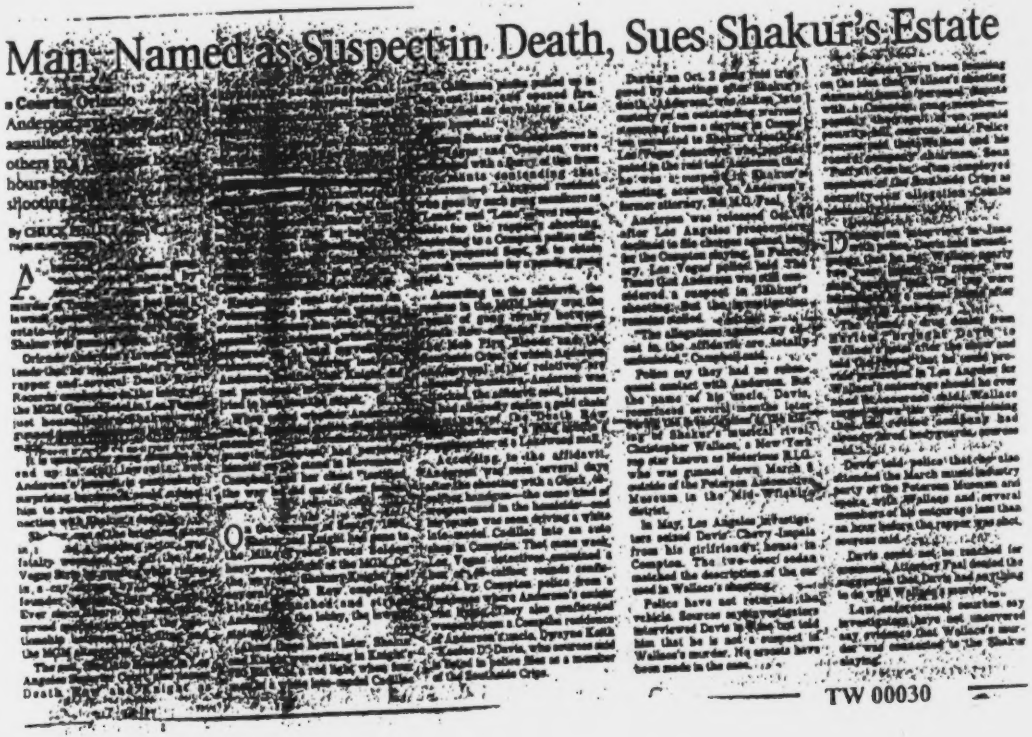


Man Named as Suspect in Death, Sues Shakur's Estate

TW 00030

Shakur

Booty

Here's a new growth industry: TUPAC SHAKUR litigation. In the year since Shakur's death, at least five suits have been brought against his estate, the most recent by a suspect in his murder. Last week Orlando Anderson filed a personal-injury suit that claimed he was beaten up by Shakur and friends hours before the rap star was killed. Shakur's lawyer, Richard Fischbein, immediately fired back with a wrongful-death lawsuit against Anderson. Earlier, Shakur's mother Afeni won control of Shakur's master recordings from Death Row Records, and settled a claim that the estate owed the company more than $7 million. An Arkansas woman's award of $16.6 million after being shot and paralyzed at a Shakur concert is being appealed>

TW 00031

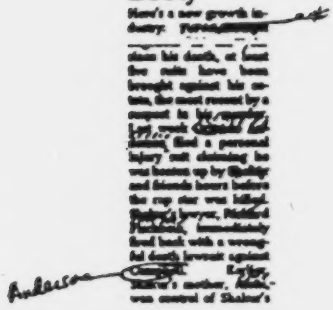
Jim Collins: was she suing the estate, or someone else e.g.

the promoter?//the estate◀.
L 35 Even Shakur's father is
36 suing for a cut. The prize
37 for the most bizarre suit,
L 38 however, goes to anti-
39 rap warrior C. DeLores
40 Tucker,▶Jim Collins: ID TK she is/was head of a semi-well known anti-rap organization (think she may have partnered with bennet in condemning time warner ◀ who claims that
L 41 lewd remarks▶Chris Porterfield: Can we use something sharper and more descriptive?◀ made
L 42 about her on Shakur's
L 43 album All Eyez on Me
44 caused her so much dis-
L 45 tress that she and her
46 husband have not been
L 47 able to have sex. She
48 wants $10 million. ▶Belinda Luscombe: "Every lawyer in my firm wants to be in th room for the deposition on that one, " says Fischbein.◀

People

SEP 22 1997

Shakur
Booty



Shakur
Booty

Here's a new growth industry: [illegible]

...claim his death, at least five suits have been brought against his estate, the most recent by a woman in [illegible] Calif., [illegible] a personal injury suit claiming he was beaten up by Shakur and friends hours before the rap star was killed. [illegible] Jewett, Middle [illegible] immediately filed back with a wrongful death lawsuit against [illegible] Lolita [illegible], mother, [illegible] was named of Shakur's

Anderson

...major recordings from Death Row Records, and settled a claim that the estate owed the company more than $7 million. An Arkansas woman's award of $16.6 million after being shot and paralyzed at a Shakur concert, is being appealed. Even Shakur's father is suing for a cut. The price for the most bizarre suit, however, goes to anti-rap warrior C. DeLores Tucker, who claims that lewd remarks made about her on Shakur's album All Eyez On Me caused her so much distress she said her husband have not been able to have sex. She wants $10 million.

TW 00033

0541g.R1 Payolit TW 00034

PEOPLE By BELINDA LUSCOMBE

Guess Who Else Is Coming to Dinner?

trying to turn her life around, wrapped last week. She has no new work lined up, but she's optimistic. After all, her dad probably still has a copy of that tape. If that doesn't bring new offers, "the record company said I could always come back."

Shakur Booty

Rap's new gossip industry versus MARIA Hamilton. In the year since Shakur's death, at least five suits have been brought against his estate, the most recent by a woman in her 20s. Last week Orlando Anderson filed a paternity suit that claimed he was beaten up by Shakur and friends hours before the rap star was killed. Shakur's lawyer, Richard Fletcher, has unfailingly fired back with a wrongful-death lawsuit against Anderson. Earlier, Shakur's mother filed was control of Shakur's

Women Who Used To Run with O.J.

She's not sure about those murders in Brentwood but PAULA BARBIERI thinks O.J. Simpson is guilty of one thing—being a very bad boyfriend. Not that Barbieri's choice in menfolk is all that shrewd. In her new book, The Other Woman, she reveals that on the night of the murders she was on a date in Las Vegas with Michael Bolton. She had previously lived with Dolph Lundgren and hung out with Roman Polanski and George Hamilton. Barbieri, who says her support of Simpson during the criminal trial led to the loss of all her money, her career and her apartment (although she reportedly got $3 million for the book, which should ease the sting a tad), now claims O.J. was a liar—especially about other women—but that she still loves him. In another new book, I'm Not Dancing Anymore, O.J.'s niece Tenn Baker expresses her own doubts about O.J.'s innocence. She also writes that he wasn't such a great uncle either.

SEEN & HEARD

Of all the celebs in the world, whose image is protected most keenly? Barbie's. Now over against Mattel, which makes the toy, is suing MCA records for trademark infringement over *Barbie Girl*, a bubble-gum dance song by the Danish band Aqua. It doesn't help that the song has lyrics like "You can brush my hair/ Undress me everywhere."

Can a director win against a studio? Maybe. Robert Altman's cut for *The Gingerbread Man* didn't get the response at test screenings that PolyGram wanted. So, although Altman threatened to take his name off the film, the studio had a new editor chop off eight minutes. But the new cut tested only a little better. The studio chose to keep the Al-

murder soundtrack from Death Row Records, and settled a claim that the estate owed the company more than $7 million. An Arkansas woman's award of $10.8 million after being shot and paralyzed at a Shakur concert is being appealed. Even Shakur's labor is suing for a cut. The price for the most bizarre sale, however, goes to rap-rap warrior C. DeLores Tucker, who claims that [illegible] Shakur's ghost. All [illegible] wants her to [illegible] $10 million.

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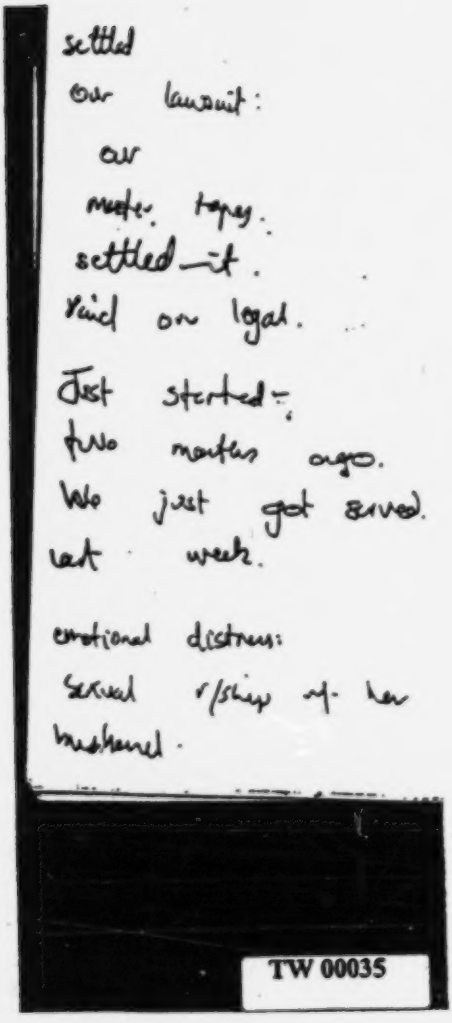
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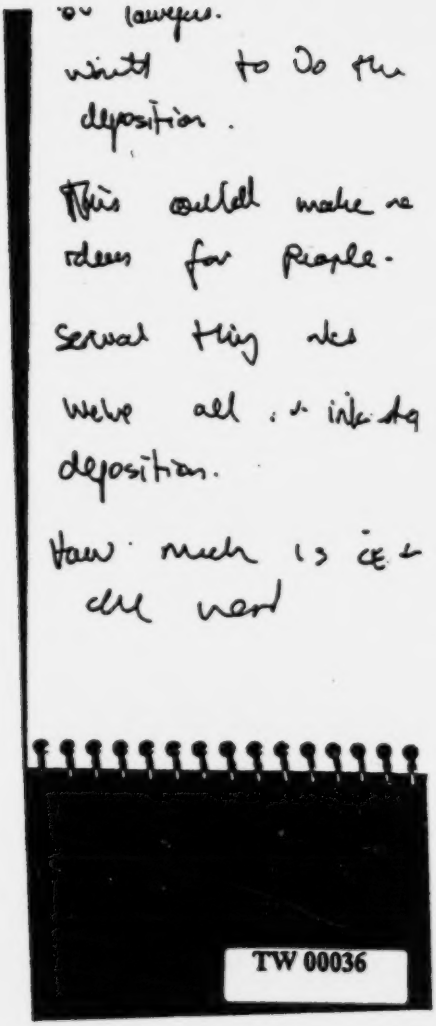
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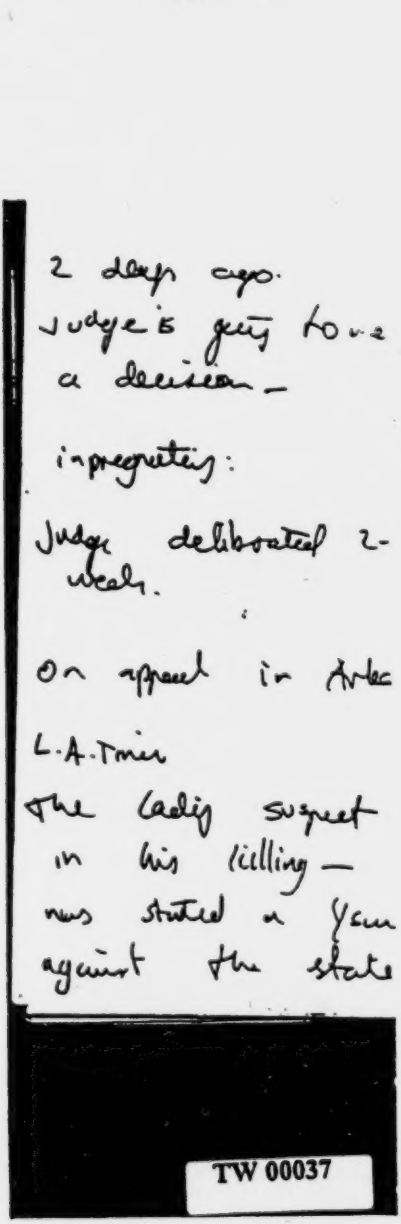
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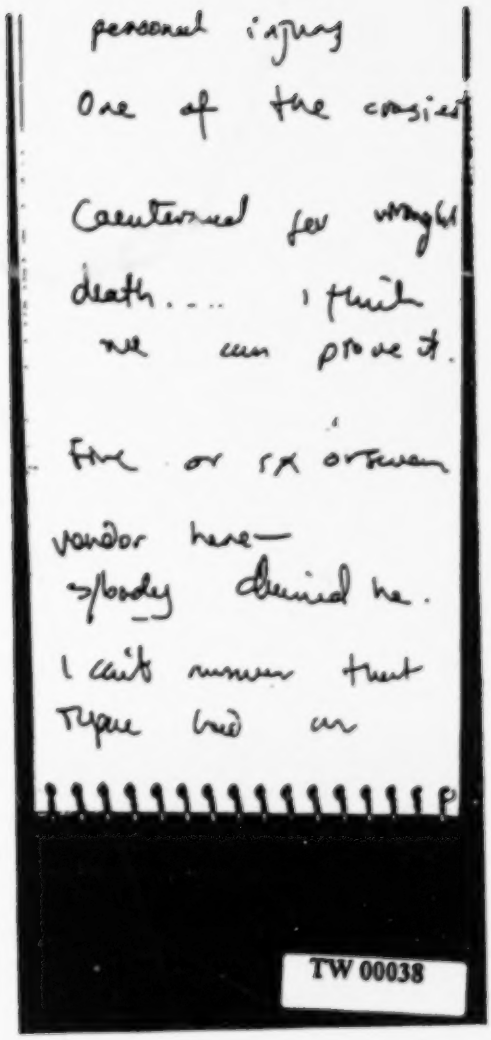
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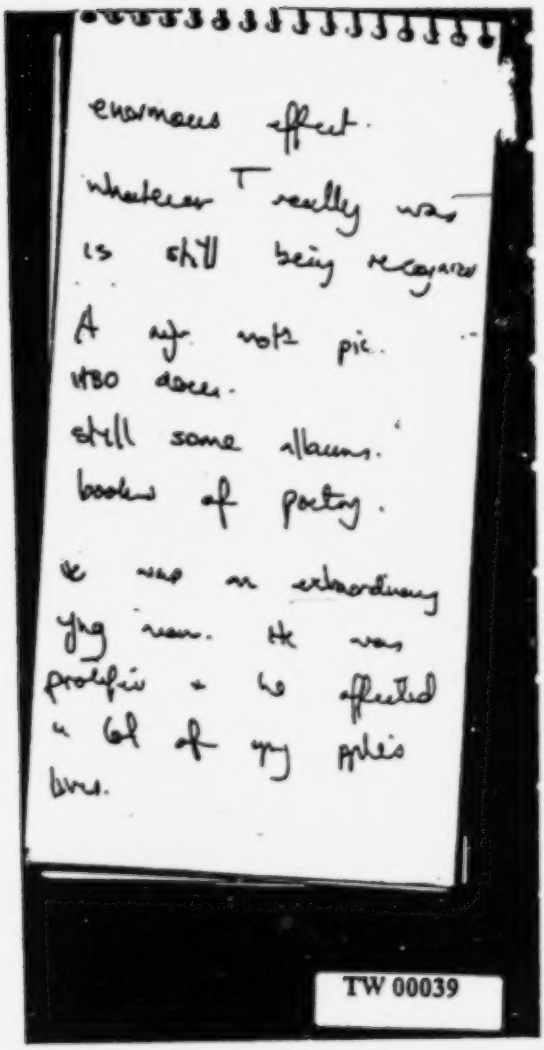
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He was an extraordinary
young man. He was
prolific + he affected
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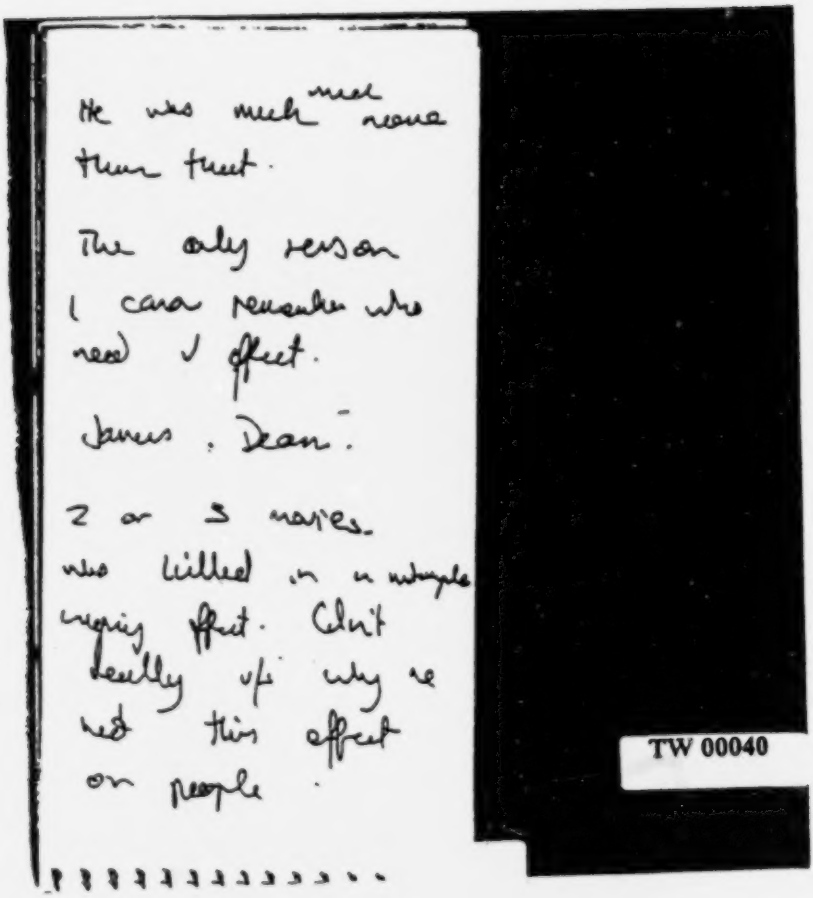
lives.
TW 00039



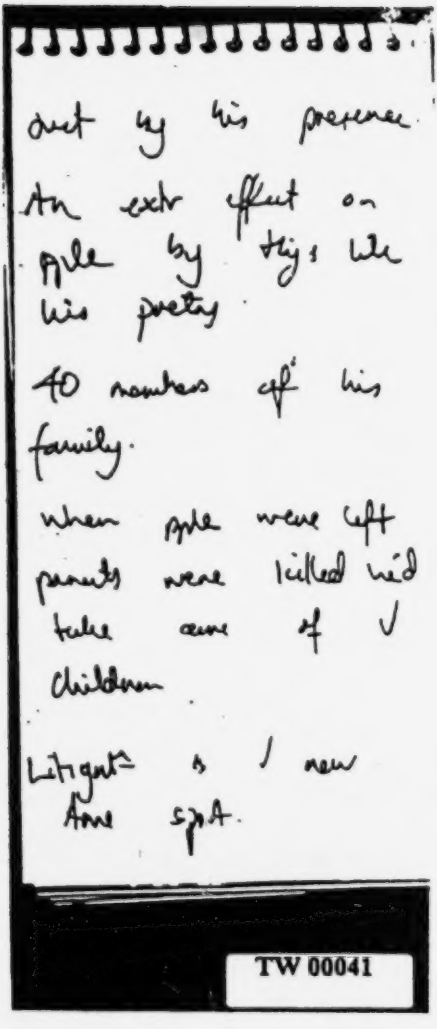
He was much more real than most.

The only person I can remember who used V effect.

James Dean.

2 or 3 more.
who killed in a simple crying effect. Don't really know why we need this effect on people.

TW 00040



duct by his presence.

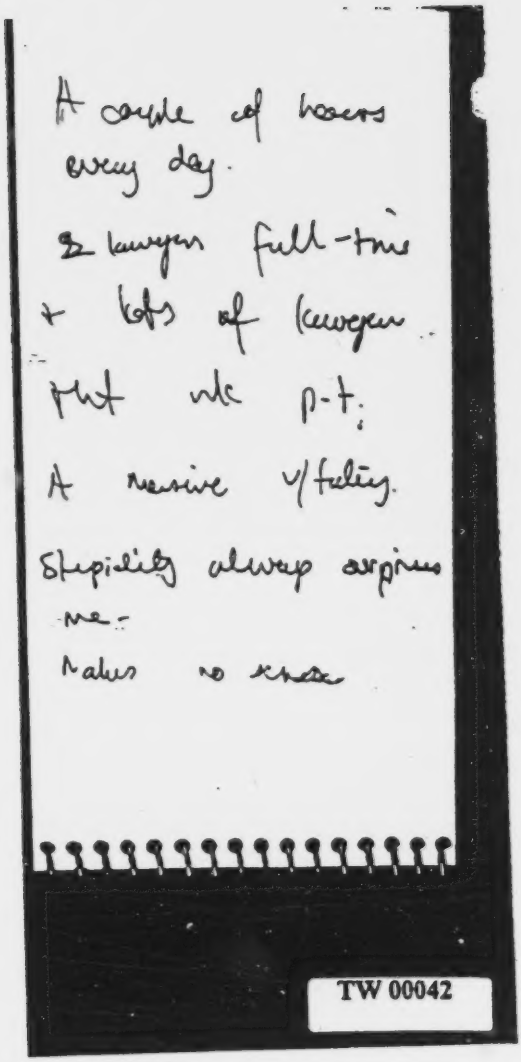
An extr effect on
pple by hijs like
his poetry

40 members off his
family.

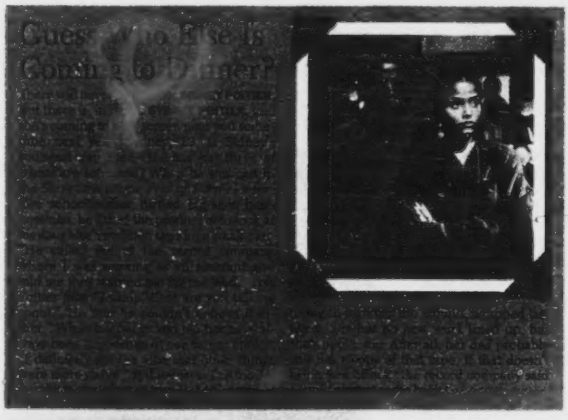
when pple were left
parents were killed and
take care of
children

Litigat= is / new
Aone sysA.

TW 00041


A couple of hours
every day.
2 lawyers full-time
+ lots of lawyers
that we p-t.
A massive w/feeling.
Stupidity always surprises
me -
Makes no sense
TW 00042

By BELINDA LUSCOMBE

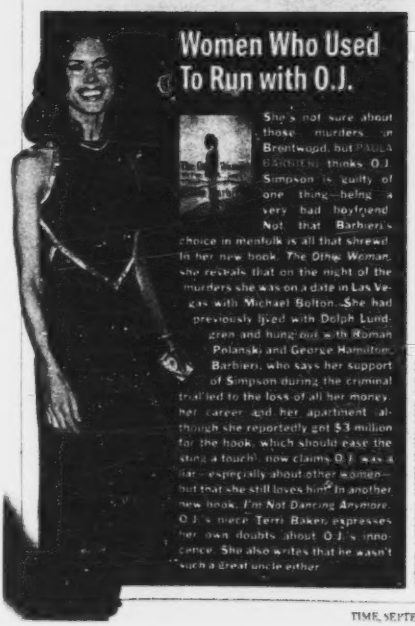


Shakur Booty

Here's a new growth industry: TUPAC SHAKUR litigation. In the year since Shakur's death, at least five suits have been brought against his estate, the most recent by a suspect in his murder. Last week Orlando Anderson filed a personal-injury suit that claimed he was beaten up by Shakur and friends hours before the rap star was killed. Shakur's lawyer, Richard Fischbein, immediately fired back with a wrongful-death lawsuit against Anderson. Earlier, Shakur's mother Afeni won control of Shakur's

master recordings from Death Row Records, and settled a claim that the estate owed the company more than $7 million. An Arkansas woman's award of $16.3 million after being shot and paralyzed at a Shakur concert is being appealed. Even Shakur's father is suing for a cut. The prize for the most bizarre suit, however, goes to anti-rap warrior C. DeLores Tucker, who claims that lewd remarks made about her on Shakur's album *All Eyes on Me* caused her so much distress that she and her husband have not been able to have sex. She wants $10 million.

Women Who Used To Run with O.J.



She's not sure about those murders in Brentwood, but PAULA BARBIERI thinks O.J. Simpson is guilty of one thing—being a very bad boyfriend. Not that Barbieri's choice in menfolk is all that shrewd. In her new book, *The Other Woman*, she reveals that on the night of the murders she was on a date in Las Vegas with Michael Bolton. She had previously lived with Dolph Lundgren and hung out with Roman Polanski and George Hamilton. Barbieri, who says her support of Simpson during the criminal trial led to the loss of all her money, her career and her apartment (although she reportedly got $3 million for the book, which should ease the sting a touch), now claims O.J. was a liar—especially about other women—but that she still loves him. In another new book, *I'm Not Dancing Anymore*, O.J.'s niece Terri Baker expresses her own doubts about O.J.'s innocence. She also writes that he wasn't such a great uncle either.

SEEN & HEARD

Of all the celebs in the world, whose image is protected most fiercely? **Barbie's.** Now ever vigilant Mattel, which makes the toy, is suing MCA records for trademark infringement over *Barbie Girl*, a bubble-gum dance song by the Danish band Aqua. It doesn't help that the song has lyrics like "You can brush my hair/ Undress me everywhere."

Can a director win against a studio? Maybe. **Robert Altman's** cut for *The Gingerbread Man* didn't get the response at test screenings that PolyGram wanted. So, although Altman threatened to take his name off the film, the studio had a new editor chop off eight minutes. But the new cut tested only a little better. The studio chose to keep the Altman version—and his name.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION
NO. 97-CV-4717
C. DELORES TUCKER and
WILLIAM TUCKER, her husband
vs
RICHARD FISCHBEIN as Co-Administrator
and AFENI SHAKUR as Co-Administratrix
of the Estate of TUPAC SHAKUR

Videotape deposition of RICHARD C. ANGINO, ESQUIRE, taken at the offices of ANGINO & ROVNER, P.C., 4503 North Front Street, Harrisburg, Pennsylvania, on Wednesday, July 22, 1998, at 9:52 a.m., before Julie M. Zanaras, a Federally Approved Reporter, Registered Professional Reporter, CSR and Notary Public.

ZANARAS REPORTING
REGISTERED PROFESSIONAL REPORTERS
1710-12 Locust Street
Philadelphia, Pennsylvania 19103
(215) 790-7857

drafted, do you know?

A. I'm sure they were drafted by Jim Schultz.

Q. Did you discuss with Mr. Schultz how that allegation should be drafted?

A. No.

Q. Did you make available to him any draft Complaints that he could use?

A. See, what you're saying is do I make available. The office has a form Complaint, the office has hundreds of Complaints where that claim is available.

Q. Would you expect that a young law, clerk who's being asked to draft a Complaint on loss of consortium, would go to some place in your law office and consult a prior Complaint that contains such an allegation and use that language?

A. Absolutely.

Q. And so do you understand that that's what happened here?

A. Sure.

Q. When you make a claim for loss of consortium, do you generally use these words, loss of advice, companionship and consortium?

A. I can't honestly say.

Q. Okay.

A. You've got 300 plus Complaints there, and you'll see the type of language used.

Q. What, in your understanding of the terms, does the term consortium add to the terms advice and companionship?

A. Frankly, what the word consortium adds that it is just another term which means you are entitled to get all of the things, and I think I used with your particular reporter, the family union concept. When you damage one spouse, you damage the other spouse in each and every way. And so consortium is like an all encompassing word that you use even when you use other particular things, this means just in case there's something we missed. This includes everything, you know.

Q. Consortium includes everything about the marital relationship?

A. Everything about the marital relationship.

Q. And one of the things that it includes is sexual relations?

A. It can include sexual relations, yes.

Q. Take a look, if you would, please, at Exhibit Number-12. It's a series of dictionary definitions, which I think you've seen before. The first definition, Mr. Angino, is from Black's Law Dictionary. Do you have a copy of Black's Law Dictionary in your law office here in Harrisburg?

A. I'm sure we have several of them.

Q. Would you agree with me that Black's Law Dictionary is the standard text used by lawyers in the United States for definition of legal terms?

A. Absolutely.

Q. And you became familiar with that law dictionary in law school?

A. Probably.

Q. Do you accept the definition that is contained in the 1990 edition of Black's Law Dictionary, for the term consortium as follows: "Conjugal fellowship of husband and wife, and the right of each to the company, society, co-operation, affection, and aid of the other in every conjugal relation. Loss of 'consortium' consists of several elements, encompassing not only material services but such intangibles as society, guidance, companionship, and sexual relations."

I'll stop there. Do you accept that definition?

A. Certainly. You're talking to somebody that over my lifetime, probably has filed thousands of Complaints and tried hundreds of cases.

Q. And the next definition that appears in this exhibit, I believe, is a definition from Merriam-Webster's Collegiate Dictionary, Tenth Edition.

A. Right.

Q. And the definition of consortium in that dictionary, the relevant definition which is the third one, is "The legal right of one spouse to the company, affection and assistance of and to sexual relations with the other."

Do you accept that definition?

A. Yes.

Q. And the third definition that is in this exhibit is from the American Heritage Dictionary of the English Language, Third Edition. And the definition is a little hard to read, I confess, in this particular copy, but it appears to read as follows—and this again, is the second definition and it's—I'm sorry, third definition. "The right

of a spouse to the company of, help of, affection of, and sexual relations with his or her mate."

Do you accept that definition of the legal term of consortium?

A. Yes.

Q. Do you have dictionaries in your office, other than Black's Law Dictionary?

A. Certainly.

Q. Do you have—what dictionaries do you have, do you know?

A. Well, the one that I've been referring to is one that is sitting at the desk across from my office, which is, I think, Webster's Ninth version. I think you're using Merriam-Webster's Tenth. In response to Mr. Donald David, the reason we use the Ninth, is it's the one that's there.

Q. And that is the dictionary that you say is across from your office?

A. Yes. When you came in, when you checked in with the receptionist there, if you had looked behind her desk, there's a dictionary sitting right there. And whenever I want a dictionary, I walk across the hall, I pick the dictionary up.

Q. If you want to look up a legal term, would you first consult

Webster's dictionary or a Black's Law Dictionary?

A. Well, I didn't want a legal term, because we were suing Newsweek and Time, and I didn't expect that they would know about Black's Dictionary. I suspected that people like Johnnie Roberts and Belinda Luscombe would know to look at a regular dictionary. And that's what I was attempting to do there. And what I did was to say, look, here's the situation, if you don't know what the word consortium means, you should consult a dictionary. Now, if a lay person were to do that, what would that person find. So what I did was I walked across the hall, picked up the dictionary, and that's what I found.

Q. So the first time that you looked up the word consortium in connection with any of these proceedings was when you were contemplating a lawsuit against Time and Newsweek?

A. No. I think when I did that was when we were getting the misrepresentation, the distortion of the word consortium. That's when I went to look at the dictionary.

Q. When was that?

A. That would have been in August of 1997.

Q. And what did you do after you looked it up in Webster's dictionary?

A. It eventually became a part of one of my Amended Complaints.

Q. The first time you made any use of that definition was when you had an Amended Complaint drafted, right?

A. Right. Where it appeared. In fact, one of the things Donald David I think brought out, was the fact that—I think it may have been even the Second Amended Complaint, whichever one refers to the dictionary is when I looked at the dictionary.

Q. Well, okay. So in other words—I guess I misstated this before. The first time that you looked up the term consortium in the dictionary, was not when you prepared the Complaint against Time and Newsweek, but when you prepared the Amended Complaint against MTS, Interscope and Mr. Fischbein as executor of the estate?

A. That's correct. That's correct.

Q. And that would have been right after the Newsweek article came out, right?

A. It would have been whenever it appeared. It could have

been after the Newsweek. I mean, I'm not going to say that it did or didn't, but it may have been after the—I was totally frustrated, because I talked to Johnnie Roberts—and you're right, it would have been after the Newsweek.

Q. That's all I need to know right now.

Now, I haven't had a chance to go over these Complaints that you produced this morning, but I guess you've produced a number of Complaints in which you or other lawyers in your law firm have made allegations pertaining to a loss of consortium.

A. The most important would be my own. I brought a lawsuit where my wife's one of the individuals in it.

MR. DAVID: I don't think there's a question pending.

MR. ANGINO: Okay.

MR. DAVID: Just to remind everybody.

BY MR. BAINE:

Q. But the—is this a claim that you add as a matter of routine, when one spouse has been injured physically?

A. Yes.

Q. So your law office routinely adds a loss of consortium claim,

whenever one spouse has received a physical injury?

A. Absolutely.

Q. For example, if there's an automobile accident, and one spouse suffers a broken leg,you'll add a loss of consortium claim automatically?

A. Automatically. You—you trip on a carpet and you injure your toe, it may involve a loss of consortium claim.

Q. And what is it that you understand you can recover through a loss of consortium claim?

A. Through a loss of consortium claim, you can recover the fact that the husband now has to do the dishes, whereas he didn't do the dishes before. He can—you can recover for the fact that the wife now has to mow the lawn when her husband used to mow the lawn. You can recover for the fact that the husband, who used to do the plumbing, now the wife has to do the plumbing. You recover for the aspect of everything that one person used to do that the other person may do now or, you know, how their life has been affected by this. It's a very common part of every claim that we have in our office. I mean, you know, a situation is that one spouse is injured and the

other spouse is affected.

Q. In this particular case, when the claim loss of advice, society—I have the wrong words here, just a second. The loss of advice, companionship and consortium was made on behalf of Mr. Tucker, I take it that you were not alleging that Mrs. Tucker was no longer performing services, such as washing the dishes, cutting the lawn, actual services like that. That wasn't involved in this case?

A. Well, it was. Because the whole thing about it is that the word consortium was there for each and every element wherein Mr. Tucker was suffering. It's Mr. Tucker's claim. He's saying because my wife has been affected, she's not as pleasant as she used to be. She's irritable now. Basically, I have to perhaps go and do something. I mean, I'm just giving you all the things that can occur in—

Q. I'm not asking what could possibly occur. I'm asking you, in this particular case, what kinds of injuries the Complaint contemplated. And I take it that you were not aware then, and you're not aware now, of any injury of the sort that I've described, namely, that Mrs. Tucker wasn't doing the dishes or wasn't doing the lawn or

wasn't actually doing chores.

A. The purpose of the consortium count was to cover everything that—every way in which Mr. Tucker was affected, every way.

Q. And at that point, you didn't know exactly how?

A. Absolutely not. Just as we don't know in many Complaints that are filed. That's why it is a common count, because if you don't make it, it's lost. It's what's called a derivative count. If your statute of limitations go by, and you haven't filed that consortium count, the spouse has lost his or her claim for anything.

Q. I understand. And in this particular case, Mr. Angino, I take it that because you had not spoken to Mr. Tucker directly about exactly what the injuries were, you used the term, it was all encompassing?

A. Absolutely.

Q. And you didn't know at that time, whether or not ultimately, it would turn out to be the case, that one of the things that you could recover some money for, was that perhaps Mrs. Tucker wasn't

performing certain chores?

A. That's right.

Q. You didn't know that that wasn't the case, and you didn't know that that was the case?

A. That's right.

Q. And the same thing would be true, for example, if we were talking about loss of sexual relations. At that point, you didn't know whether that was the case or whether that wasn't the case?

A. That's absolutely correct.

Q. And that was something that you were going to explore on your own with Mr. Tucker as the case progressed?

A. Absolutely.

Q. And at some point, you would make a decision about whether or not ultimately to go before a jury and say, part of what we want recovery for here is for loss of sexual relations. You didn't know that yet?

A. That's right.

Q. Before you made that determination, you would have had to talk to Mr. Tucker?

A. That's right.

Q. And until you talked to Mr. Tucker, you wouldn't be in a

position to say that he was or was not claiming damages for damage to his sexual relations?

A. That's right.

Q. And when was the first time that you did speak to Mr. Tucker about precisely what kinds of damages you might ultimately pursue through this loss of consortium claim?

A. We never discussed the kinds of claims that we would be pursuing. Just the opposite happened. When this Complaint was filed, and the media picked it up, I got a call stating that this had been blown completely out of proportion. And I was asked what should we do, so that it wasn't what is going to be included. There was never an intent for sex to be included.

Q. Who said that?

A. Who said that?

Q. Yes.

A. Mr. and Mrs. Tucker and Paul Waters communicated to me that.

Q. Well, how—did you have a meeting with everybody?

A. A phone call.

Q. Okay. There was a—

A. In fact, I set up a procedure that we were to follow within days of when this happened. I can give you the timetable, because it's very clear in my mind. Saturday night, which was August the 2nd, of 1997, we were having a benefit at my Italian Garden, where we had members of the New York Ballet there for Mid-summer Night's Dream. Paul Waters wasn't able to attend, he was somewhere. His daughter, I think, and son-in-law attended, gave their regrets for the fact that Paul wasn't going to be there.

The next day, I headed to South Carolina to go on a vacation. So we're talking August the 3rd. Somewhere in that August 3rd, August 4th period, I was advised, and I can't—you know, I've been trying to find out exactly how it occurred, but it was a communication from Paul Waters to me, because I hadn't known what had happened. The communication was that somehow they had taken the Complaint, and said something about people not being able to have sex. And this I can remember so clearly, because what I said is look, Mr. and Mrs. Tucker are public figures. They—and I'm saying Mr. and Mrs. Tucker, when really basically Mrs. Tucker is the public

figure, but Mr. Tucker is not, let's say, a person who is not able to communicate.

So what I said to Paul was, in any way, shape or form that they can let the public know that this does not involve sex, we've got to nip it in the bud. And I said if there are any—if there's anybody who wants to talk to me, I will be happy to talk to reporters.

This is something I normally don't do, but I thought it was important in this particular case. You will see from things that have been produced to you there, I actually made phone calls from my South Carolina property. I think on August 4th there were two calls, August 5th, August 8th. I have a recollection of actually talking to somebody on my car phone. The reporter was saying you're on a car phone. I said yes, and we had a discussion.

The purpose of all of these discussions was to say, look, this has nothing to do with sex, and basically, you're misrepresenting the thing. In fact, if you look at one of the things here, you've been using an article—

Q. We're going to get into all of that.

A. But that's how it happened.

Q. I don't mind hearing all this, but I have questions that—

A. Follow your order. But that's what happened. So it was decided almost immediately, to dispel any notion that this case involved sex.

Q. You indicated that you went to South Carolina on August 3rd. As of the time you departed for South Carolina, I take it you had not had any conversation with Mr. Waters, Mr. Tucker or Mrs. Tucker about these news articles?

A. I can't say that. Paul could have called me on Sunday morning before I left.

Q. But you don't remember that?

A. I don't remember. I'm just saying Paul called me. I do remember that, because I remember his voice, and I remember his upsetment at the time, and asking me what should be done. And I had no question in my mind, I told Paul, we've got to nip this in the bud, we have to make it clear that everybody understands, because it—it makes the case frivolous

Q. Okay. And I'm just trying to get the sequence down. I think what you said before is he called you in South Carolina, right?

A. No; no. Didn't say that. I said I talked to Paul. I went to South Carolina. I don't know if he called Sunday morning before I left for South Carolina, or if he talked to me in South Carolina, or that he talked to somebody in the office, and I talked to them. In some way or another, it had to be Paul, because I remembered his voice. So it was an actual conversation with Paul, because I told him—he was concerned and worried as to what we should do. And I told him, make sure that the Tuckers, any oppor—any chance they have, dispel this idea.

Q. You did not speak to the Tuckers yourself?

A. I did not speak to the Tuckers.

Q. Did you ever speak to the Tuckers yourself about the need to dispel this understanding, say up through the end of August?

A. I don't recall speaking to them to dispel the understanding.

Q. Okay. Would it be fair to say that the only conversation that you recall having to the effect that we have to nip this in the bud, we have to tell people that this doesn't concern sex, was the conversation

you had with Mr. Waters on or about August 3rd?

A. That's the one that I clearly remember, yes.

Q. Did he ever report back to you that he had communicated that on to the Tuckers in any fashion?

A. No.

Q. Could you take a look, please, at Exhibit Number-13?

THE VIDEOTAPE TECHNICIAN: Counsel, five minutes left.

MR. BAINE: Okay.

BY MR. BAINE:

Q. Mr. Angino, Exhibit Number-13 is a page from the medical records of William Tucker. It's a memo of Dr. Harold Mignott. It's dated June 12, 1997. I take it you have seen this document in the course of the discovery proceedings in this case?

A. Yes.

Q. In this document, Mr. Mignott records that Mr. Tucker had, among other things, complained of increased stress, because his wife had been harassed. Had said that she is very stressed and that has

had an impact on him. And that he has been investigated and had derogatory information spread about him, which has caused significant amount of stress on his part. And that he has a significant amount of difficulty with impotence.

Did you know back in June, July or August of 1997, that Mr. Tucker had been experiencing difficulty with impotence?

A. No.

Q. If Mr. Tucker had been experiencing difficulty with impotence as a result of the stress that had been placed upon him by the actions that you were complaining about, in the lawsuit that you brought on their behalf, would he be permitted to recover for that—those sexual difficulties in the lawsuit, in your judgment?

A. You're using as a hypothetical question, that he has had stress, and the impotence is the result of the stress, then obviously, you could make a claim for such a thing. If those are—if that's your hypothetical.

Q. And would the way you make such a claim be to allege loss of consortium?

A. You—you would make it, but you probably would use the

factual elements in that particular situation. You would probably, under those circumstances, specifically do what we did with regard to the fear. You know, for instance, in Mrs. Tucker's Complaint, we talked about the fact that she was, you know, fearful for her life. You would probably have used—because in that case you would have specifically known that there was impotence caused by stress. And you would have said, as a result of stress that Mr. Tucker has been under, I mean, I would think.

Q. Let me ask you this question, Mr. Angino. You're a very experienced and creative and successful plaintiff's lawyer.

A. Thank you.

Q. If Mr. Tucker had come to you and said, you know, I think I've been harmed by everything that's gone on here, by these lyrics, by the way this lawsuit is being pursued, I think it has damaged my wife and put stress on her, it has as a result, put stress on me and my relationship with her is not what it used to be, and indeed, because of that, I believe I am suffering difficulty with impotence.

If Mr. Tucker had said those things to you, and I understand

you did not have that conversation with him, but if he had said those things to you, I take it you would have included a claim in the Complaint that would have ultimately permitted you to recover damages for the injury to his sexual relations with his wife, right?

A. If those factual circumstances had occurred, one question I would probably have asked in this, did you ever have the problem before? I mean, that would be an automatic question. You know, for instance, whenever somebody tells me they have a back injury or any injury, I always say, did you ever have this problem before. And from what we know in the facts here, he said he had problems when he was 19 and when he was a kid. So we would not have included that element, because it would diminish the more important aspects of the case.

Q. Well, let me just ask you this question. If you're dealing with the problem of impotence that had not been continuous, but rather had arisen from time to time in periods of increased stress, would not the law permit you to recover on the theory that the plaintiff—that the defendant takes the plaintiff as he finds him, right. And if,

in fact, the plaintiff had some vulnerability to impotence in times of increased stress, and increased stress was placed on him by the defendants in this particular case, you could recover, right, for the impotence?

A. You talk—you—you gave me the credit of 33 years of experience. I would not demean this case by putting it in here. I mean, I'm just being perfectly honest with you. You do not put elements that will hurt your case.

Q. Have you ever filed a claim for loss of consortium that did involve lost sexual relations?

A. By lost, do you mean total loss?

Q. Either total or partial or permanent or temporary?

A. I'm sure somewhere over 33 years, a couple has been affected in some way or another by the accident, you know. So I would have to say yes.

Q. Are there cases in which one—one spouse has been killed and the surviving spouse could claim that—

A. I don't think you get a claim for loss of sexual in that case, but I'm—

Q. Okay. When you have asserted loss of consortium and had

in mind that in this particular case, you wanted to recover for damage to sexual relations, had you spelled that out in the Complaint, or have you just used the term loss of consortium?

A. I'm going to say to you, if we were in State Court, we obviously would have to spell it out, because it's a factual requirement. You know, State practice is factual. Federal is notice pleading.

Q. In Federal Court, would you spell that out or just use loss of consortium?

A. I don't know.

MR. BAINE: Okay. I think we're out of tape. Thank you.

THE VIDEOTAPE TECHNICIAN: Off the video record at 12:00. This is the end of tape one.

(Off the record.)

THE VIDEOTAPE TECHNICIAN: We are back on the video record at 12:10. This is the beginning of tape two. Proceed.

BY MR. BAINE:

Q. Mr. Angino, it was your understanding, was it not, that the idea to include a loss of consortium claim on behalf of Mr. Tucker,

was Mr. Tucker's?

A. It was Mr. Waters who communicated it to me, is that what you're saying?

Q. Was it your understanding that Mr. Tucker had suggested to Mr. Waters that he thought he had a claim, and that he should be included in the suit?

A. All I know is what you know, that there was between one draft and another, include a consortium count for Mr. Tucker.

Q. So you don't—you didn't know, at the time, whether or not the initiative to include Mr. Tucker had come from Mr. Tucker or Mr. Waters?

A. That's correct.

Q. Now, you indicated before that you spoke to Mr. Waters, you believe, on August 3rd or August 4th, maybe in South Carolina, maybe when you were here in Harrisburg, right?

A. Right.

Q. It was a telephone conversation?

A. Right.

Q. When did you return to Pennsylvania from South Carolina?

A. You guys have my calendar. I'm going to guess--

Q. Well, let's look at your calendar, if that going to help you.

A. Yes. The calendar will help me.

Q. I've marked your calendar as Exhibit-43.

A. Okay. Let's look at it.

(Calendar for July, August and September 1997 was marked as Angino-43 for identification.)

THE WITNESS: I'm looking at Angino-43. And you will see it starts with the 5th saying, RCA/aka, that's my wife's—Alice K. Angino. SC means South Carolina.

And it's showing that I had a pre-trial on the 11th of August, so—that was a case I tried on the 20th, so I assume I came back for that pre-trial.

BY MR. BAINE:

Q. So looking at your calendar then, would you conclude that you were in South Carolina from at least the 5th through the 10th?

A. At least the 5th through the 10th.

Q. I worded it that way deliberately. What about the 3rd and

4th?

A. I think I went on the 3rd.

Q. You think you went on the 3rd.

A. I think I went on the 3rd.

Q. Okay. So you would have been out of town that whole week then. And I believe, tell me if I misrecollect this. What you indicated to me before, I think, was that you don't remember talking to Mr. or Mrs. Tucker about this matter any time in August?

A. That's right.

Q. And you don't remember talking to Mr. Waters about it any time, other than this conversation on the 3rd or the 4th?

A. The only one that is clear is that conversation.

Q. Fair enough. Fair enough. In your earlier response, you had said that you said to Mr. Waters, Mr. and Mrs. Tucker are public figures. And then you explained that what you meant with respect to Mr. Tucker was that he, at least, did have access to the channels of communication; is that right?

A. Yes. Being—being married to Mrs. Tucker is what I'm referring to.

Q. In other words, you—you—you knew that the press would take an interest in this lawsuit, and that they would continue to take an interest in this lawsuit?

A. You're using the word—no, I would suspect that they would.

Q. Expect?

A. Expect. Expect would be a better word, yes. But I have to say that when I filed the Complaint, I didn't alert anybody that I was filing a Complaint.

Q. It—it got attention on its own, given who these people were and given the nature of the claim, right?

A. It did.

Q. And in retrospect, it's not really surprising, given the figures involved in both sides of the case, right?

A. That's right.

Q. I want to go through some additional exhibits. Exhibit-14 and Exhibit-15 are two Associated Press stories, dated August 1, 1997. I just want to ask you whether you recall seeing these stories at the time that they came out?

A. No. The only story I remember seeing was that one that appeared in the Philadelphia—and that was given to me, rather than anything else. That one there. That's the only one I think I saw.

Q. You're referring to Exhibit-16.

MR. BAINE: Let's show Mr. Angino Number-16.

THE WITNESS: My recollection is that Exhibit-16 got to me through Paul Waters in some way. That's my recollection.

BY MR. BAINE:

Q. You don't think you saw it then on August 2nd, the date that it was published.

A. No.

Q. Sometime later?

A. No.

Q. Would you have seen it sometime within the next couple of days or some period of weeks thereafter?

A. I'm going to guess. I don't think it was sent to me down in South Carolina where I was.

Q. So you think you saw it sometime after you returned from South Carolina?

A. That would be my guess.

Q. But you don't have a recollection of exactly how Mr. Waters got this to you?

A. No. I can say under oath that the only thing I knew about this was what Paul Waters transmitted by way of that telephone call.

Q. Did he refer in that telephone call to any specific news article?

A. I don't think so. He may have said the Philadelphia, but I mean, you know—again, I don't know.

Q. Did you know as of August 3rd or 4th when this conversation took place, that Mrs. Tucker had been in the hospital?

A. You know, I don't think I did know that she was in the hospital.

Q. So then you—you would not have known what has been testified to in previous depositions, about Mrs. Tucker's being in the hospital, being shown an article, having some kind of relapse. You didn't know about that at that time?

A. I didn't know about that, I think, up until relatively recently. I would say more as part of this discovery process, rather than before.

Q. Up until, let's say September 1st, 1997, which would have

been after the Newsweek article, how many times had you met face-to-face with Mr. or Mrs. Tucker?

A. I'm going to guess a couple.

Q. Would it be fair to say that you really did not have—strike that.

Would it be fair to say that—that Mr. Waters was the person who had a long-standing relationship with the Tuckers, and that you, yourself, didn't know them very well at that point?

A. I would say you're accurate.

Q. Was it your understanding that Mr. Waters was a—was a close personal friend of the Tuckers?

A. Yes. I said that on the record.

Q. But you knew that back then?

A. Certainly. I knew from the time they first came in that the relationship went back to college, when Mr. Waters and Mr. Tucker went to college together.

Q. Let me ask you to look at a couple of other exhibits that we've marked. Exhibit-17 is an article in the Philadelphia Daily News, dated August 6th, 1997. This would have been published

during the period of time that you were in South Carolina. Do you remember seeing this article at any time prior to the time that—that it was used as an exhibit in these proceedings?

A. No.

Q. Same thing with Exhibit-18. This is an article in The Philadelphia Tribune, dated August 5th, 1997. Did you ever see that article prior to the time that it was marked as an exhibit in these proceedings?

A. No. The interesting thing about it though, it talks about trying, I think, to call me. And you'll see there were two calls that I returned to them.

Q. Well, now you're talking about Exhibit-18?

A. I think so. Philadelphia Tribune. I called The Philadelphia Tribune two times on August the 4th.

Q. From South Carolina?

A. From South Carolina.

Q. Did you talk to anybody?

A. I spoke to someone in the news room. I don't know who it was. And that's where I found it a little upsetting is, I see the article

now says they tried to reach me.

Q. Okay. You're referring to a document that you produced in discovery, a memo to the Tucker file and RCA?

A. Right.

Q. Dated July 13th, 1998.

A. Right.

Q. Okay. You've produced that memo to us actually, in two forms, one with some handwriting on it, one without handwriting on it. Let me mark these as an exhibit.

MR. BAINE: Let's give these Exhibit Number-44.

(Two pages of Memo to Tucker File and RCA dated July 13, 1998 was marked as Angino-44 for identification.)

BY MR. BAINE:

Q. Mr. Angino, did you prepare an Exhibit Number-44 on or about July 13th, 1998?

A. A paralegal from our office prepared it.

Q. And did she prepare it by reviewing your telephone records?

A. Yes.

Q. And then did you help her figure out who the people were who were being called?

A. I asked her to call each of these entities and talk to them. So the notes you see are her notes.

Q. The handwritten notes that are on the second page of this exhibit are her notes?

A. They're her notes. The typewritten portion is hers, too. This is almost a document totally generated by a paralegal.

Q. And did you ask her to generate this document?

A. Yes.

Q. What instructions did you give her?

A. I said contact—once we had the phone numbers of—I think my wife Alice got the phone numbers from our South Carolina residence, and we gave her the phone numbers, and I said call these numbers, find out who they are. We didn't even know who they were, first of all.

Q. All right. Okay.

A. And once you find out who they are, here was the instructions. Number one, do they have a record of the call. Number two,

did they make any notes of the phone call. Number three, did they—did it generate an article. And we asked them to get me who—whom I talked to, what I said, and what was the article.

Q. Okay. So, for example, the second item, which is Philadelphia Tribune, indicates that you made two phone calls to the Tribune on August 4th, at 12:30 and 4:06—

A. Right.

Q. —one minute and four minutes.

A. Right.

Q. And then the name of Irv Randolph appears here.

A. I suspect that Gwen, who is the paralegal, talked to Irv Randolph, who's the editor, and said that I spoke to someone in the news room.

Q. Your paralegal said that?

A. Yes.

Q. Was she able to confirm who it was you spoke to?

A. You—you see what it is. You spoke to someone in news room. It doesn't say who that someone was.

Q. Did Irv Randolph confirm that?

A. Yes. Because I mean, he—

Q. Or—or—or was that just your paralegal writing that down that was what she figured, that you must have spoken to someone, but she didn't know who?

A. Well, my understanding of my paralegal is what she is meaning here is she talked to Irv Randolph, and he said I spoke to someone in the news room.

Q. And—and the notes on the side say 7/16 call tomorrow, 7/17 left detailed message may be—

A. May be off site.

Q. Maybe something off site. Maybe archives off site?

A. Archived outside yes.

Q. In other words, there may be some record of a call in archives—

A. Right.

Q. —off site, that's how you understand that?

A. Right. I wanted to get everything that I could.

Q. Do you have a recollection of speaking to someone at The Philadelphia Tribune?

A. I remember during the first week speaking to a number of people. Specifically Philadelphia Tribune, no.

Q. Okay. Do you have a recollection of speaking to anybody at WWDB?

A. Specifically, no.

Q. Do you have a recollection of speaking to anybody at the Billboard Bulletin?

A. A little bit of a recollection of this Carolyn Herwitz—Horwitz. I mean, you know—the woman, you know—some conversations stick out more than others, and I have some recollection. It looks like it was a nine minute conversation, so that we probably—but if you ask me what did you say specifically with her during that nine minutes—

Q. I just asked whether you had any recollection of talking to her?

A. Okay. All right.

Q. And—and you do remember talking to Carolyn Horwitz?

A. I think so.

Q. How does the name Carolyn Horwitz get on this piece of

paper? Is that some name that you gave to your paralegal or is that something—

A. No. She would have gotten that. The reason that I do have some recollection is, this used to be an old Jewish firm. It was called Hurwitz Klein, Benjamin and—Hurwitz, Klein, Myers and Benjamin. So Hurwitz—and the spelling of that was H-u-r-w-i-t-z, was the senior of this law firm. So Hurwitz—

Q. You mean Angino & Rovner?

A. Yeah. What's now Angino & Rovner really goes back to 1928 as the Hurwitz firm.

Q. Okay. All right. The notation here says Carolyn, I guess, received faxed copy of article attached. Looks like someone at the Bulletin faxed your paralegal a copy of an article, right?

A. Right. And you have it.

Q. Okay. And the notation next to WWDB says per Chad Wilkinson, tapes are discarded after three months. They have nothing on the interview, I guess is what it says. So in other words, they were not able to confirm that you talked to anybody, right?

A. Right.

Q. Does the name Chad Wilkinson mean anything to you?

A. No.

Q. Moving down to the Philadelphia Weekly, there's a notation that Tim Whitaker is finding and faxing something. Did—did Tim Whitaker find and fax something to you?

A. I think—yeah, I think you got the two articles that I produced for you today. They were two editorials that they did.

Q. Produced today?

A. They were circulated when we started this morning.

Q. Okay. I don't think I saw them before. We'll look at them in a second.

A. You know, I'm producing things as I'm getting them, you know.

Q. Okay. But you don't know to whom you spoke at the Philadelphia Weekly?

A. No.

Q. Okay. The Philadelphia—you indicated earlier that you thought that The Philadelphia Tribune article made some reference there to being unable to reach you.

A. Right.

Q. Is that in—can you show me where that is?

A. All right.

Q. I guess up here it says on page 3, maybe this helps. "C. DeLores Tucker's Harrisburg attorney Richard C. Angino did not return calls yesterday."

A. Yes.

Q. Do you see that?

A. Right. obviously yesterday was the 4th, which is when I returned two calls. Didn't make any sense.

Q. It would seem highly likely, would you agree, that although you placed two phone calls, it doesn't look like you had a substantive conversation.

A. Well, one of them was four minutes, I think.

Q. That's right. One minute and four minutes.

A. That sounds like a substantive conversation to me.

Q. But you don't—you don't have a recollection of it?

A. I mean, I—I'm sure I talked to people. I was trying to dispel

this sex business, so ...

Q. That's not what I said. But you don't have a recollection of talking to someone at The Philadelphia Tribune?

A. No.

Q. Did you ever see the press release that was issued by—on behalf of Mrs. Tucker's organization on August 21st, 1997, which we've marked as Exhibit-19?

A. I can't honestly say if I did, when I did or the circumstances of it.

Q. Okay.

MR. BAINE: Let—let's show the exhibit to the witness for a second. Nineteen.

THE WITNESS: It would be along the lines of what I asked them to do.

BY MR. BAINE:

Q. Do you have that? Okay. Do you see the second to the last paragraph on the first page, where there's a statement about the media jumping on "the so-called sex part in the suit"—

A. Yes.

Q. —"that called attention to loss of consortium." And then it says, "Which was put in there by my husband, Bill, not by me, she added, obviously nettled."

A. Right.

Q. That seems to me to be something that you would probably remember reading, if you had read it at the time. Do you remember reading it back in August of '97?

A. I'm pretty sure I didn't read it in August of '97.

Q. Did you have any understanding, recognizing you hadn't—that you didn't speak to Mrs. Tucker in August, did you have any understanding, at any time, that Mrs. Tucker was at all annoyed or nettled or bothered by the fact that this loss of consortium claim had been put in the Complaint?

A. Mrs. Tucker was upset at what the media did, and they used to do what they did, to loss of consortium count. So if you follow that logic, if that count hadn't been there, they wouldn't have done whatever it is they did. You know, I'm thinking, logic, lay person, what does a lay person say. Look, this media is talking about sex. How

in the heck did they come up with this particular thing. And everybody is asking her about consortium. And this is a lay person responding to him. I didn't even have anything to do with this consortium count. My husband put it in, you know.

Q. But—but did you understand that that—did you understand back in August and September that that was her feeling, that she was annoyed that it had ever been included in the first place?

A. She was annoyed at anything that was in that Complaint that could have given the media a kernel to misrepresent what they did.

Q. And at some point, did she ever have a conversation with you about why anybody ever put that in there?

A. No. She never—never said that.

Q. Did—to your knowledge, did she have a conversation to that effect with Mr. Waters?

A. How would I know?

Q. He could have told you.

A. I don't know.

Q. And you don't know whether she had a conversation to that effect with her husband?

A. I don't know that. I can honestly tell you that up until this moment, we've never talked about their private lives in any way, shape or form.

Q. And Exhibit-20, Mr. Angino, is a—a series of articles, all of which have been marked in one way or another before. I'll just represent to you that these articles run from August 1st through August 17th, 1997, and they all report on the allegations of the Complaint. And my question really is whether you had seen any of these before. I understood you to say a moment ago, that the only story you remember seeing in August of '97 was the Philadelphia Daily News story. And so I take it from that, that you really don't remember, at the time, seeing any of these other stories?

A. You've answered your question.

Q. Now, up until the time that you spoke to Mr. Roberts—we're going to talk about that in a second. Before that, are you able to identify any reporters that you recall speaking to about this lawsuit?

A. Can't identify by name. I recall the conversation with Mrs. Horwitz or Ms. Horwitz or whatever she would be. And I recall

another conversation with another woman reporter, that occurred from my car phone, because the woman specifically said are you calling me from a car phone. And I said yes, I want to talk to you about this. And I think it was—my recollection and another similarly lengthy kind of conversation that—so the two that I have specific recollection of is Ms. Horwitz and the one from the car phone. Those are the two.

But I can assure you, there were, at least, I would say, somewhere between six and ten or 12 conversations, as best I can guess it, during this time period. The ones that I have a record of because we called out, and I may have gotten other calls where they called in, you know, and I don't have a record of. What we're attempting to do now is to—we're about to start a lawsuit, and part of the discovery process is going to be to try to get the records of everybody who wrote these articles here, to find out if they talked to me.

Q. Okay. But Exhibit-44, which contains some notations concerning calls to four different media outlets, those are the calls that you made from your South Carolina residence to the press, as far as

you know?

A. As far as I know.

Q. Do you have any comparable list of calls that you made from your Harrisburg office or your home or your car phone?

A. You have whatever we have. And the only thing that seems to show up there is the calls to Johnnie Roberts' office.

Q. That wasn't my question. You did produce a number of other telephone records, and I take it you've reviewed those, and you're not able to identify any other phone calls to reporters on the other records you produced?

A. Right.

Q. And you don't have any other records?

A. The phone—the phone records we're trying to get from the car. Incredibly, these car phone records are archived somewhere, and we're having trouble getting them.

Q. So you're trying to get your car phone records, but unless and until those records show up, the only records that you have of phone calls to reporters, would be the Johnnie Roberts calls, and the four that are referred to in Exhibit-44?

A. As best as I—we have been able to discover at this point in time. You know, I'm saying that, because I haven't personally called all the numbers that are there, but I'm assuming that if there was some kind of station or some kind of newspaper, my paralegal would have brought that to my attention. She prepared the chronology that you have there, and it indicates all of our activity.

Q. And you—I don't think you've produced any home telephone records, and I take it it's because that doesn't reflect any conversations with reporters?

A. If it did, you would have had them.

Q. All right. If we could look at Exhibit Number-21. And that is a set of telephone records. And from what I can tell, Mr. Angino, it would appear that there are two references on this document on page 1, to phone calls to Mr. Roberts at Newsweek. The first is under the first heading—

A. Is it on page 1?

Q. Yes. August 20, 5:12 p.m., looks like 36 seconds. Do you see that?

A. Help me here.

Q. First page of the exhibit, Exhibit-21, third item. Item

number 3.

A. To New York?

Q. Yes.

A. 8/20. Okay. I got you.

Q. Thirty-six seconds, right?

A. Yes.

Q. And then item number 10.

A. To New York?

Q. Fifty-four seconds?

A. Right.

Q. These would appear to be calls that you returned to Mr. Roberts in Newsweek, right?

A. That's correct.

Q. And you did speak to Mr. Roberts at some point on August 20th, right?

A. That's correct.

Q. Mr. Roberts' phone records, which previously have been marked, and they're marked as Exhibit-22 as well, indicate that he had phone conversations with you placed by him at 3:42 and 5:24. And the 5:24 conversation appears to have been the substantive conversation with you. That's your understanding?

A. That's correct. I was on trial that week, so I suspect that 3:42

would have not been to me.

Q. Now, you received a phone message from your secretary that Mr. Roberts was trying to reach you, right?

A. Right.

Q. And did you know why he was trying to reach you?

A. Yes. It said something about writing a story and a deadline for the story.

Q. And when you spoke to Mr. Roberts finally on the phone, could you tell me in sequence what you remember of that conversation?

A. Yes, I think I can. I'm going to use for assistance, his notes and my things so that we'll—

Q. Well, first, can you do it just by recollection, without reading from notes? And then go—

A. Probably not, because what I do remember is that the first part of the conversation dealt with the constitution. I had present at that time, this defamation and invasion of privacy, which you can see was underlined by me. I also had the Falwell Opinions, which had

different yellow stickers and things and my underlining, because I knew from prior conversations that I had had with other reporters, one of the things that was being discussed was the justification of saying what was said by Tupac Shakur. So when I talked to him, that constituted the first part of our discussion.

Q. Do you remember how the conversation began? And—and—and Mr. Angino, I want to make clear that when I ask those questions, I'm not asking you to try to figure out what might have happened. When I ask you whether you remember, I really first want to know what you recall. And later on, we can talk about how you logically fill in the gaps in your recollection. But do you have a recollection of how the conversation began?

A. Yes.

Q. Okay. How did it begin?

A. The conversation began, and we're all tuned in when you're a lawyer, to understanding who's on the other side. I could tell from voice that it sounded like an African/American talking to me. Secondly, I recall that the discussion was justifying what Tupac Shakur had done. And there was a specific mention of the Falwell Opinion,

by Johnnie Roberts, whereby he was referring—I think he may have used the word Flynt or whatever the name was or something like that who brought the action. But he was attempting, in the early part of our conversation, to justify Tupac Shakur doing what he did. And as a lawyer always prepares for conversations, I had the Flynt Opinion in front of me, plus I had—and Jim DeCinti was the person who got this outline together for me for that conversation.

Q. Well, is your testimony, Mr. Angino, that you correctly anticipated that Mr. Roberts was going to raise the Falwell Opinion, and that you had the opinion given to you and highlighted and underlined, and then, to and behold, Mr. Roberts actually raised the very opinion that you had before you?

A. Absolutely. Absolutely. In fact, I had the Complaint as well.

Q. Now, how did the conversation get to this issue of justification for what Mr. Shakur had done? Did you raise it or did he?

A. He did.

Q. How did he raise it?

A. He raised it. And I will not obviously remember the exact words, but he was saying—he said, I have the Complaint, so I got from him that he saw the Complaint that I had filed, and that we were communicating with regard to the Complaint, and whether or not it had a legal basis. And he mentioned specifically the Flynt Opinion, and I had the Flynt Opinion, and I had it underlined. And you see the stickers that are on these things, that was all done in preparation, because I mean, I don't talk to Newsweek reporters every day. You know, I'm a little lawyer in Harrisburg, Pennsylvania. And basically, this is a reporter calling me from Newsweek Magazine, and he wants to talk to me about this Tucker case. And so basically, you know, I'm impressed. And I'm going to be prepared. You can see that the conversation is occurring sometime after 5:00. I was on trial on—with the Valora case, and we run, generally, when we're on trial until 4:00 or 4:30.

So I came back to the office, and got together the items that I felt might come up. The Complaint would be one thing, the summary was another. thing, the Flynt Opinion was something else.

I had spread out just—this is the way I do things. Do you see

the desk we're looking at now? I have things spread out, that's exactly the way in which this conversation took place. And it took place down in my office, which is directly below here, and it took place—I was at a table whereby the different papers were spread out in front of me. And just as you occasionally are prepared for witnesses who are going to testify in trials and prepared for them, I was prepared for him. And when he started to talk about the Flynt Opinion, and the fact that my case didn't have merit, that they can do whatever they want to do, I'm a lawyer and I was saying, well, here's what Flynt says here and, you know, the reason for that is not the reason for this. So the initial part of our conversation dealt with that. And that I clearly remember without looking at anything else. My recollection is—

Q. Before we go on, you referred to a couple of documents. I'd like to mark them as exhibits. First, you've referred to a copy of the Flynt Opinion. You've given me two copies of this opinion this morning, one that has no notations, and the other one which is underlined. I take it the one you have in front of you is the one that had underlining on it; is that right?

A. The one that—I had them both.

Q. You had them both? You had a clean copy and—

MR. KASTENBERG: Those aren't duplicates. One is the Fourth—

MR. BAINE: One is Fourth Circuit, on is Supreme Court, okay.

BY MR. BAINE:

Q. You had them both, Fourth Circuit and Supreme Court?

A. Yes. I had both of these Opinions. And you will see they both have little yellow stickers.

Q. Have you made copies of your little yellow stickers for us?

A. I don't think we made copies of your little yellow stickers. They were the way in which I do things.

Q. May I see what they say?

A. I guess so. Don't remove them, because I asked my secretary to not disturb anything, because that's the way they were.

Q. Maybe what we could do is, I would like to ask you to read

into the record what the notes are on the yellow stickers on both these exhibits, in part because I don't have them, and in part because I can't read them. But if you could just, for example, say the Fourth Circuit Opinion on page 1, I've got two notes that say the following, that would be helpful, and we can get through it in a couple of minutes.

MR. BAINE: Let me—let's mark these as—as an exhibit to this deposition. It would be Exhibit Number-45. I'm marking both of them. Supreme Court first, Fourth Circuit second, both as part of 45.

(Supreme Court Opinion and Fourth Circuit Opinion was marked as Angino-45 for identification.)

THE WITNESS: You are challenging me to read my handwriting.

BY MR. BAINE:

Q. Do the best that you can. If you can't read it, that's fine.

A. The first looks—this is on page 8 of the Fourth Circuit. The first word appears to be false. The second looks like disclosures. The next appears to be damage to rep. Down below that is jury verdict,

hurt feeling, emotional harm, physical harm.

Page 9, public office sue, false, reckless disregard. The word one. I assume Falwell one below or something like that.

Page 11, intentional lie—I can't read my next handwriting here. That's all that's marked on that. And looking at the Opinion, nothing is underlined in the Opinion.

Q. Okay. Now, let's turn to the Supreme Court Opinion.

A. Supreme Court Opinion starts with underlining, which you have. I—I assume—

Q. Yes. Don't—don't mention that. Just read to me what's on your yellow stickers and tell me what page they're affixed to.

A. Okay. Page 3, parody, not to be taken seriously. Jury, no reasonable person takes seriously. Actual malice, false, no intent to harm more spread loss from money.

Page 6, vulgar, offensive—can't make out the next word—untrue, act, malice. Just words. Those are what the stickers state.

Q. Okay. All right. When did you do all of the underlining and

make all the notations on these two cases?

A. My recollection is that I did that before I would have talked to Johnnie Roberts. I'm not going to say I did it that day, but sometime between the time when we started to get these phone calls, and they'd always mentioned—they didn't always—different phone calls would bring up the Flynt Opinion. So I eventually said I should have, you know, in order to answer questions about—I had never read the Flynt Opinion before that. If you—if you look at it, it says "For Educational Use Only." This would have indicated that I had asked Jim Schultz, who was a student at that time, to get me copies of these particular cases. And only students, I guess, can do this kind of thing. And I don't know if I'm violating another rule or something by obviously using this. But I had gotten it at that time, and these were items that I had in front of me when I talked to Johnnie Roberts.

Q. So you're inferring from the fact that it says For Educational Use Only, that your law clerk used his identification number to get on to West Law to get these Opinions for you?

A. I wouldn't even know how that's done, but I'm assuming

that's the way it happens.

Q. All right. And to the best of your recollection, you're telling me that you had had conversations with reporters prior to your conversation with Johnnie Roberts, in which reporters had raised with you the meaning of this Falwell case, and suggested to you that that indicated—that case indicated Tupac Shakur had a right to say whatever he wanted in his lyrics?

A. Right.

Q. And so you actually were led to these—to these cases by reporters?

A. Right.

Q. And that Johnnie Roberts was one of a number of reporters who raised this case with you?

A. Absolutely.

Q. But not the first?

A. Not the first.

Q. Had there been several who had raised it before him?

A. I would think there would have been more than one or else, you know, why would I have wanted to make sure I had this when I talked to Johnnie Roberts, you know. And you know, I just said that,

but really what it amounts to is we have a liability file in all cases, and in that file I stick things such as this. So that basically, when I'm talking to him, I have a liability file, which gives me information like this. And when we talked, that's one of the—the first subject of the conversation.

Q. Okay. Just hold on for one second, I want to look something up.

Mr. Angino, obviously, these conversations didn't occur yesterday. You've testified you had a number of conversations with reporters, and I want to ask you whether or not it's possible that your recollection that you discussed the Falwell case with Mr. Roberts might be mistaken, and that you might have had those conversations with others, not with him. And in answering that question, I ask you to consider what you know to be Mr. Roberts' testimony, that he doesn't remember that part of the conversation at all. Do you think it's possible that, in fact, you discussed the Falwell case with some reporters, but not with him in that conversation?

A. Absolutely not. And I have not used that type of language before. That is something that I am positive of.

Q. And are you also positive that you—that there was a discussion of the Falwell case in the subsequent radio interview that you did with Mr. Roberts and others?

A. The radio interview involved the propriety of Tupac Shakur's verbiage, and it involved a give and take with me and somebody I think they brought from a college or something, not—didn't seem to be a lawyer, but seemed to be an individual who may be a history professor or a government professor or something like that. And the situation was that the reporter wanted us to talk about the propriety of it. And I remember the other individual didn't seem to know much about the constitution, and didn't know much about Falwell. And when it came to Johnnie Roberts, he says I don't know anything about the constitution.

Q. But I believe that you indicated earlier on, I think it was at Mr. Roberts, deposition, that you recall that Mr. Roberts did offer opinions about the Falwell case and the constitutionality and the constitutional protection that Mr. Shakur had, early on in the conversation, but then when you became involved, he said he didn't,

really wasn't an expert on the constitution?

A. No. He did not say a single word in that radio interview about the constitution. You are misunderstanding that with the discussion I had with him, which to me was so clear. Here's a guy arguing with me on a phone conversation about the constitution and Falwell, and then we're on the radio, and he suddenly no longer says he knows anything about the constitution. And that's his—the sum and substance of his words were, at almost the end of this give and take back and forth, I don't—I'm not a constitutional expert, I think was his—if you have it there, I think it may say I'm not a—

Q. I'm just looking at what you asked Mr. Roberts at his deposition where you made certain representations.

A. But I mean, if you have the radio thing, I think you would find that his part was, after we went through this, he says I am not a constitutional expert. That's my recollection. And I've—I've never got the transcript, but if you look at it, I think you'll find it will say something along those lines. I have a very good memory.

MR. DAVID: You modestly said that.

Sorry, it was an inappropriate comment, I apologize.

BY MR. BAINE:

Q. I'll look at this transcript a little bit later. I can't find what I was looking for. This is the transcript of the Roberts' deposition.

And what was it that Mr. Roberts said in his conversation with you about the Falwell case?

A. I would be less than candid if I could give you his words. But the essence of them was that the Falwell Supreme Court Opinion would justify Tupac Shakur doing what he did.

Q. And you engaged in a discussion with him about whether that was the case, and you disagreed with him?

A. I think we probably spent at least three or four minutes on that aspect.

Q. And—and how did Mr. Roberts introduce that subject of Tupac Shakur's right to say what he said. I mean, did he begin the conversation with—by challenging you as to the merits of your lawsuit?

A. You know that isn't the way a conversation would start. The

conversation would start by his saying, I am, and he would identify himself. And he probably had already done that, because you can see from some of the other things, we'd been playing telephone tag, and when I finally got to him, he says call me—you know, I'll call you on my nickel, that kind of thing. And he eventually did call me on his nickel, so to speak.

So by that time, we may or may not have introduced ourselves, in terms of who we are, but we obviously knew who we were, in some way, after what usually occurs in conversations. And the thing that I remember is here's this guy wanting to argue with me, about the fact that what I had filed, is not going to be sustained because there's a Supreme Court Falwell decision. Like, you know, a lawyer talking to a reporter and the reporter in effect debating with me the constitutionality of my action, or the appropriateness of my action. Those are things that stick out in your mind. And that was the first part of the conversation and none of it appears in Johnnie Roberts' notes.

Q. Let me—let me—let me read to you the testimony that you elicited from Mr. Roberts at page 139 and 140 of his deposition.

A. Okay.

Q. And you're asking him about the conversation that he had with you.

"Question: Was not the first subject of the conversation the constitutionality and the protection of the First Amendment with respect to what Tupac had done? Was that not the first topic of the conversation?

"Answer: Not that I remember.

"Question: Did you not reference the Falwell case as being a basis upon which Tupac Shakur could do what he did? Did you not do that?

"Answer: Certainly not.

"Question: Did you not discuss with me the Falwell case?

"Answer: Certainly not.

"Question: Did I not point out the differences between the Falwell case and what Tupac Shakur had done?

"Answer: Not to me.

"Question: Did we not, after going through the Falwell case and the constitutionality of what the Supreme Court did in Falwell, talk about whether that is or is not represented or similar to what

happened with Tupac?

"Answer: That wasn't a conversation I had with you."

You remember asking those questions and getting those answers right?

A. Yes.

Q. And you watched—you had the opportunity to watch Mr. Roberts as he delivered those answers. Is it your belief that Mr. Roberts was lying when he gave those answers?

A. I think Mr. Roberts did not remember that we discussed it. I don't think he was lying.

Q. Okay.

A. I can honestly tell you that I've looked at people and witnesses for 33 years. He did not appear to be lying. But what I sensed in the way he was answering was, maybe I did, and maybe this guy knows something that I don't remember. So I would say rather than lying, I think that was not part of what to him was important, so he did not type that into his records. And let's give the man the benefit of the doubt, that he interviews a lot of sources every day, whereas I only talk to Newsweek once in a lifetime, you know, so my recollection, I think, is much better than his recollection.

Q. Mr. Angino, I've tried to struggle with the different accounts that you and Mr. Roberts have given of this conversation.

A. That's right.

Q. I do want to ask you more questions about your recollection of it, but you're in the unique position of not only providing us with your recollection, but having had the opportunity to examine Mr. Roberts under oath for some period of time. And I just wanted to ask you this question: Wouldn't you agree with me that everything about the way Mr. Roberts conducted himself and answered those questions, indicates that he was giving you his truthful recollection, whether or not it conformed with yours, whether or not it was mistaken, whether or not he misremembered, but that Mr. Roberts gave every indication of—of giving you truthful answers to your questions?

A. I agree. I—I didn't sense a liar. I sensed somebody that didn't remember.

Q. Well, and this is what I've been asking you about kind of informally, but now I get the chance to do it under oath. You've been

a lawyer for many years, and you have seen time and time again, how different people involved in the same conversation or the same event, come away with the—from the conversation or the event with a different understanding at the time, and then also, remember it differently later on.

And there are some occasions we all know, in litigation, where it's just remarkable that people who have seen and witnessed the same thing or had the same conversation with each other, come away with a completely different understanding of what happened or what was said. And there are other cases where—where we form a belief that, in fact, what happened is one person is just lying about what happened or what was said.

And so my question to you is, don't you think that it is equally possible here, at least equally possible here, that in so far as the conversation between you and Mr. Roberts was concerned, that you and he just had a miscommunication in the sense that you understood one message to be conveyed clearly, and Mr. Roberts understood something else, that that is altogether possible, and at least as possible as the other likelihood, which is that one of you is just flat

out lying about what took place?

A. I can assure you, and you've taken my deposition now for maybe an hour, two and a half hours, when I don't know, it will be on the record that I don't know. I know that I talked to him about the constitution. I know that he told me and tried to justify what Tupac Shakur did by referencing Falwell. I know that as clear as I know that my name is Richard Angino.

Q. But that—but that's not my question. I, for better—

A. That's my answer to your question.

Q. —for purposes of this question—for purposes of this question, I accept that you are firm in your conviction that your account of the conversation is accurate. And I'm not, through this question, trying to get you to admit that your—your account of the conversation is inaccurate. I'm rather exploring something else, and that is whether or not—if you're firm in your conviction that you said and meant certain things, you must be sitting there thinking either that Mr. Roberts has lied about that conversation or that he just didn't understand it, whether because he's not a good listener or because

you think there was some flaw in his ability to understand what you're saying or for whatever reason, that—that he didn't understand what you were saying at various times in the conversation.

It—it's one or the other. If you're absolutely right about your recollection, then either Mr. Roberts has lied, or he didn't understand you, right? Because the three possibilities are that—that you're wrong about the conversation, he's wrong about the conversation, or one of you misremembers or misunderstood or one of you is lying, right? I mean, those are the possibilities here?

A. No. The probability—the probability is that he listened, he heard, it was not germane to his story, he had a deadline for his story, the note to me indicates, I have to talk to you, basically because I have a deadline for this story. The story probably had already been preliminarily thought through, in terms of what he was going to write about. He was going to write about the fact that there were lawsuits being brought against Tupac Shakur, and these lawsuits were frivolous.

When he's talking to me about the constitution, and whether or not Tupac was justified or not justified, that wasn't part of his story.

It's not—when you—when you make notes of something, you make notes of things that are germane to what you're going to be talking about. To him—

Q. So on that—so in that—in that part—I don't want to interrupt you, but in that part of the conversation you think the probability is that he just doesn't remember something took place?

A. That's right. And I'm sure that's what it is.

Q. Because he didn't strike you as the kind of guy who makes things up and lies. He's a pretty straightforward, reputable and—and—and accomplished journalist, right?

A. I—I would agree. I mean, I—I think it wasn't what his story was going to be about, so he didn't record it.

Q. And in fact, Mr. Roberts is not, by background or by assignment at—at Newsweek, he is not a gossip reporter or a personality reporter, but rather a business reporter, right? And that's what his—that's what his beat is, and those are the kinds of stories he writes, right?

A. I can assure you, that Mr. Roberts came into our conversa-

tion with a story that he already wanted to write. And no matter what I said—no matter what I said, he was still going to write that same story. And I'm looking you right now in the eye, because when I was done with that conversation, I knew he wasn't going to do or say what I was telling him. I mean, you've talked to people and you know you've talked to them, and you know you've explained the thing, and you know they are going to go and do something different than what you said. And that's—we used the word lie. I don't think when he testified in his deposition that he was lying. But I can assure you that on August the 20th, he wasn't going to give the appropriate account of this story that I gave him. I can assure you of that.

Q. I understand. I understand that you felt that he was not going to write this up the way you wanted it to be written up?

A. Absolutely. Absolutely.

Q. Okay. And that could be for one of several reasons. It could be because he knew full well what the facts are, and just intended to write something contrary, or that he wasn't understanding what you were saying, or that you weren't being successful in communi-

cating what you were saying.

But my question with that as a preliminary is simply this, you've heard Mr. Roberts testify that his understanding of what was being said on the subject of the loss of consortium claim, was that you were trying to expand his focus and get him to see that there was much, much more to this case, which he did not understand to be a statement that sex had nothing to do with it, but rather what—what he understood to mean that look, you've got to see the bigger picture, and there's much more to this, and—and implicitly in acknowledgment that it did involve sex. Now, when he gave that explanation, did it strike you that he was giving that explanation in complete bad faith, or that that's what he actually understood when he had the conversation with you?

A. I told him—

Q. I'm not asking what you told him. I'm asking what your impression is now. Have you taken his deposition of what he really understood or maybe misunderstood?

A. I'm—I'm—I'm trying to answer your question.

Q. Okay. Go ahead.

A. Can I answer it?

Q. Yes.

A. I said do you have a copy of the Complaint. He says I do. I said would you turn to paragraph 50. I—I specifically said would you turn to paragraph 50. Would you read what's in paragraph 50. I say how many paragraphs are there in this Complaint. My recollection is 66 paragraphs. I said, you guys, and I was lumping him in with every other reporter, and I was frustrated by this time, because you're talking to people, you're trying to tell that this thing has nothing to do about sex, but they want to write about sex. I mean, there was no question in my mind as I talked to him, I said read those words. I said consortium can mean, in some cases, sex. I said most of the time it doesn't, and it doesn't in this case. And I'm looking at every one of you, when I had that conversation, I knew before it was ever going to be published that it was going to talk about sex. I could—I walked out of my office that day, and I don't remember who it was, but I said I just got off the phone with this guy from Newsweek. And I said it's like talking to the wall. No matter what I told him about this thing not involving sex, he wants to write about

sex, and I said he's going to write about sex.

Q. Now, Mr. Angino, Mr. Roberts' notes, which we've marked as Exhibit-23, do you have them in front of you?

A. I sure do. And I find them extremely interesting.

Q. All right. Okay. Let's go through them. He says when you filed a Complaint we just got timetables from the Eastern District, number of things came up. Two trials going on. Lawsuit where Interscope and Death Row brought suit against Dr. Tucker, just at the opening stage of my suit. That's all the kind of thing you said, I take it?

A. Yeah, sure.

Q. I think Dr. Tucker is one of the most respected—

A. Could I just stop you for a second—

Q. Yeah, sure.

A. —because I mean, I think it requires—you can see I was trying to show him the Complaint. We were talking about these suits in California in 1995, and basically, they were brought against Interscope and Death—I was trying to give him the background of

the whole Complaint. And basically saying this is what's come about from all of this.

Q. And he was asking you specifically about the lawsuit you had filed in the Eastern District of Pennsylvania, right?

A. Right.

Q. And then the notes say, I think Dr. Tucker is one of the most respected—I presume this means individuals in the African/American community. And she doesn't take light to any of this. I take it you said that?

A. Yes.

Q. And it says, if you look at the Complaint, it has all different allegations?

A. There's exactly what I said.

Q. All right.

A. I'm telling them, look at this Complaint.

Q. It's got a lot of stuff in it?

A. That's right.

Q. You say there's one count of loss of companionship. It's ignoring the other counts. In other words, I take it—

A. And you see—excuse me.

Q. —was that a response to the articles that had been published elsewhere?

A. Yes.

Q. That everyone else has been ignoring all the other counts and just focusing only on this one claim?

A. That's right.

Q Right?

A. And I wouldn't—I wouldn't have used companionship, that's his interpretation.

Q. Okay. His loss of consortium is what you're talking about, right?

A. Of course, sure.

Q. And then you say, we're talking about all of this affecting Tucker. If someone affects you physically, mental, et cetera, they've affected the family union. You were talking about that because he was asking to you explain loss of consortium, right?

A. Yes. And look what he's—

Q. Is that right?

A. Yeah. And look what he's left out.

Q. Okay. What?

A. In most litigation—

Q. Well, we haven't gotten there yet.

A. Okay.

Q. In most litigation there is—and let—and let's—let's assume that what is left out is in most litigation of this type, there is claim for loss for consortium?

A. And that's what I told him.

Q. All right. Well, you don't have to type that out in order to remember that's what's meant, right?

A. Right.

Q. So in most cases of it—not in most cases in general, right, but in most cases of this type—

A. Most personal injury type cases.

Q. —most cases of this type, kind of cases you're involved in, there's a claim for loss of consortium—

A. Right.

Q. —it can include sex, it's probably one of the less significant aspects in relations. So in other words, what you were saying to him is, loss of consortium is the kind of claim that you see in all sorts of cases. It can include sex, but that's probably one of the less significant

aspects of it, right?

A. Right.

Q. That's what you were saying to?

A. Right.

Q. Now, don't you think it's possible when that Mr. Roberts hears you give that explanation of consortium, that what he is understanding is oh, I understand what Mr. Angino's saying, it's one of the less significant things. It's there, but it's not the biggest part of the case. And if that's what he came away with the impression about—I mean, because that's what he's told you, that's what he understood.

A. It—it—it blows my mind though. What it means is every personal injury case, you could say—my own lawsuit, somebody hits me from behind, and I got a back injury, and my wife has a loss of consortium count. Tomorrow the Newsweek Magazine says Richard Angino, prominent lawyer in Harrisburg, brings a lawsuit because he and his wife have not been able to have sex since—I mean, don't you think that's bizarre?

Q. Well, Mr. Angino, I'm not asking you whether you think that a lawyer who has knowledge of all of your cases would reach that

conclusion. I'm just asking you, don't you think it's possible that this reporter, who's not a lawyer, who's never filed a count of loss of consortium in his life, who hears you give the explanation that look, in most litigation, there is this kind of claim, it can include sex, but that's one of the less significant aspects of it, could come away with the impression that oh, okay, it's one of the less significant aspects, but it's part of it. And that—and that he could be confused about what maybe you meant. Isn't that possible?

A. I can't—I can't see it. I mean—

Q. You don't—you don't think it's—you don't think it's the reasonable or correct understanding of what you said, but—but—but you've had a chance to look at Johnnie Roberts and size him up and see what kind of guy he is. Given what you can tell, isn't it possible that that's what he understood you to be saying?

A. No.

Q. Maybe misunderstood?

A. No. Johnnie Roberts wanted to write about sex. And if it doesn't involve sex, it's not worth writing about. It's the same as a dog

biting a person. I mean, it is not interesting.

Q. Did he—did he—did he strike you as the kind of guy who writes those kinds of stories?

A. He struck me that he was going to do it here. I—I didn't know Johnnie Roberts at the time.

Q. But I mean, after taking his deposition, and now that you know the kind of work he's done.

A. I'll tell you what he's—

Q. He worked for the Wall Street Journal, business publications, he's recruited to write business stories, and he was involved in this because of the business aspect of it. And he would have had a story about all the lawsuits against the Shakur estate, whether one of them had to do with sex or not. And this is not a cub reporter who is trying to put his name on the front page of the New York Times and make a reputation for himself. His job and reputation was secure regardless of whether or not this had any reference to sex. So why do you think he threw this in, unless that's what he thought it was about?

A. Was that an opening or a closing?

Q. Yeah. No, why do you think he threw it in, unless he thought that's what it was about?

A. Today, the media is motivated to publish—they're motivated to publish things that people want to read. People want to read that some ridiculous case involves a prominent woman, who because she had heard lewd lyrics, has not able to have sex with her life. Does that make any sense? Does that make any sense?

Q. Well, let me ask you this question, Mr. Angino. We have the notes, which I've just read to you on this subject. And you have testified, as I understand it, and you have written memos explaining what you intended to be saying to Mr. Roberts was that yes, it can include sex, but that's not what we're talking about here. What he has in his notes is, it can include sex, it's probably one of the less significant aspects in relations.

Do you think it's possible that you did not use the exact words in that conversation to Mr. Roberts, that the claim in this particular case doesn't have anything to do with sex, that you meant that, that you maybe even thought that you said those exact words or something like those words, but that maybe you didn't actually say it. Isn't

that—is that possible?

A. The words I used, the tenor of what I said, was this is not a case where lewd lyrics had any effect upon Mrs. Tucker's sex life. The language was not intended for that purpose. And I'm telling you, and I am a person who will never, ever say anything under oath or otherwise, that I don't firmly believe, I knew he wasn't going to listen to me. And you can ask your questions and try to do what you do and just as you did—

Q. Well, let me just ask you this question then, Mr. Angino. Do you recall what words you used—what precise words you used, to convey to Mr. Roberts, the idea that this case did not involve sex at all?

A. My best recollection is that I told him that virtually all cases that I get involved in have consortium counts. Consortium counts basically—and I—I used examples, I really did. I told him the things you asked me, they can mean simple things like a wife or a husband being irritable, or the fact that, you know, they're not as nice as they used to be, or the fact that someone no longer takes out the grass for

you or the garbage for you or does these things. I said only in the rarest of cases would you have a count that actually involves sex. I'm under oath, so I cannot say to you that I said specifically, this case does not involve sex. But my recollection was everything I said the same thing. You know—

Q. I understand. That—that—that your—your—you don't remember the words that you used. You can't say that you did say this case does not involve sex. You can't remember that you used words that conveyed that exact meaning, but that it—but that was your intent, that's your recollection of what you were trying to get across?

A. And just as I said before—

Q. Is that fair?

A. —I was convinced that he was ignoring it all and was going to write—because he—he kept being defensive. But can't it—you know, can't you interpret consortium this way. It was like can't you interpret—I mean, can't you interpret the—something a certain way.

Q. Did—did he say that or are you—

A. Yes.

Q. He said can't you—he said can't you interpret—

A. Yes, something like—something along those lines. Can't it be—can't consortium be interpreted as meaning sex. You know—

Q. At this point, Mr. Angino, you had no idea whether or not the lyrics and other actions about which you had complained had, in fact, had an impact on the Tuckers' sex life. You just didn't know that at this point, did you?

A. No. No, I really didn't.

Q. And you weren't prepared to make a statement to Mr. Roberts that they did not have an effect on the Tuckers' sex life, because you didn't know, right?

A. Ah. Now, there you're wrong. The conversation that Paul and I had, specifically stated that we were going to—whether it did or didn't involve sex, we were going to tell the media that it didn't involve sex, because that was the whole idea. Even if there were some involvement in sex, it would minimize, it would frivolize, it would make this whole thing cheapened. So with—whether it did or didn't involve sex wasn't important. We were going to basically

not pursue any claim for sex, no matter how you could interpret the words.

Q. That wasn't the—that wasn't the gist of the statement that Mr. Tucker made to two Philadelphia publications in early August, was it?

A. Well, you—you have those publications.

Q Right.

A. And I think the gist of it is what they say. And they start out with media mischaracterizes Complaint.

Q. The gist of those statements is that something like this can—can affect everything, including sex life, and that damage to sex life was only a small part of the case. But the gist of those statements was not that damage to sex life has nothing to do with this case, was it?

A. Let me just—

Q. Was it?

A. The gist of things is not something that a witness can answer. What the gist of something—the gist of it was that the media mischaracterized these complaints, that's the gist of it.

Q. I used the word because you used the word gist. But—

A. The gist is that—

Q. —we've gone over this—we've gone over this before, and you've seen the statements that Mr. Tucker made. And what Mr. Tucker said in reference to the claim that is the damage to sex life, was that was just a small part of the case. And when he asked—

A. And that—and that was one sentence in the whole thing. The heading. You've ignored the heading. The heading says—

Q. He said that. He was quoted as saying that, right?

A. Yes, but—

Q. And—and that—that statement, that—that—that a claim of damage to sex life was just a small part of the case, is an acknowledgment that it's a part of the case, right?

A. Let us—let us even concede for your purpose, that if a media could interpret it as a small part of a case, you are not permitted under libel laws, to say that it has destroyed their sexual relations. You are not permitted to distort the Complaint in such a way. You

are not permitted to do what was done here, which is libel.

Q. Have you had an opportunity to go over the rest of Mr. Roberts' notes of your conversation with him?

A. Yes. And I could fill in all the blanks that he has left blank.

Q. Okay. Why don't you go through them and fill in the blanks?

A. All right.

Q. This is Exhibit-23.

A. All right. First of all, you've heard me testify for probably almost three hours. I hope I'm able to speak in sentences, and I hope that my answers to your questions are understandable.

If you look at this, this does not sound like Richard Angino talking. Eleven days of deposition, a national investigative firm, gangsta background. These are the kind of units on the other side music. Okay.

Now, that does not sound like somebody trying to record what the other person is saying. I can tell you what he meant by these things. Eleven days—

Q. Just—just tell us what you said.

A. Okay. First of all, what I told him is what was in the Complaint. I told him that Death Row, Interscope and the other defendants mentioned in the lawsuits were trying to shut up Mrs. Tucker. The way they were trying to shut up Mrs. Tucker was, first of all, by bringing the two rap suits in Calif—slap suits or—slap suits I guess they're called, in California. Secondly, what they attempted to do is to put her through 11 days of depositions. Thirdly, they hired this investigation firm that went throughout the country and looked up everything that they could find, to see if there's a slightest bit of dirt anywhere in her life and her husband's life.

So when you see 11 days of deposition, you see a national investigative firm, you see this. Gangster background probably and, you know, I'm just talking his two words there, would have involved the fact that Death Row has a gangster background. I mean, everybody there admits to the fact that they are proud of the fact that they are gangsters, that they spent time in jail and did different things. And so what it is, is Mrs. Tucker is afraid for her life because, first of all, these people are trying to shut her up in the ways they've been

trying to shut her up, and there's gangsters involved there, so she fears for her life. And that is why it appears in the Complaint.

These are the kinds of—and it says units, but these are the types of defendants or people who are on the other side. So I explained to him that the purpose of this Complaint is to fight back at what they had been doing to her for the last two years. There's just the word music. Now, I don't know what the word music in and of itself would mean, and I don't know how Johnnie Roberts can take the word music and make anything sensible about it. One thing that disturbs me is—

Q. Mr. Angino, you've taken notes of lots of conversation in your life, right? Sometimes you write a word down, and then you figure there is nothing worth writing there, and I'm going to stop writing there?

A. All I'm saying, big gaps. I mean, there's wording, and then there's big gap. There's 11 days, there's big gap. Call MS Tucker, and he names a MF, and this is your wife. I remembered that. I didn't know whether Johnnie Roberts was or wasn't married at the time.

But what I said to him, I said—and I usually address people by their last names, Mr. Roberts, let me give you an example. This is your wife. And basically, there is this gangster group, and they're trying to shut you up. And they put out this record, and they call your wife a—and I don't use profanity, so I would have probably said an MF or something like that, you know. And I said, how would that make you feel. Well, you know, he wanted to skip past that, how it would make him feel or you know—and that's what I mean. Those were the kind of things, you know. I'm trying to do my best as an advocate, as a lawyer, to persuade someone that this Complaint didn't involve sex. It involves all of these more important things, what Mrs. Tucker calls the gangstas in the suites, the other 11 defendants. And then—I know what we're talking about here. But all he puts down is the end of our discussion.

I talked about Fischbein, and I talked about lawyers like Fischbein, and I talked about red herrings, and I talked about people who basically take something, and they try to find out something that really doesn't even involve in it. We use that term oftentimes in litigation, civil litigation. A defense lawyer will just try to find some

little red herring, or something to talk about. And so what Mr. Fischbein did basically is take this sexual thing and try to trivialize this whole Complaint and make this Complaint into lewd lyrics destroy sex life. Thirteen page Complaint, 66 count, one count being 50 that involves consortium, and what's the response. Can't understand how these lewd lyrics could destroy her sex life. I tried to point out to him that they are being misled.

Q. Mr. Angino, I don't want to interrupt you, but you're—you're kind of going on a—on an explanation of your view of the whole case, and I want you to—

A. No. That's—that's what I told him. I mean, you're looking at—that's what's called a defense tactic. How do—what do you think the words were that brought out that, that's what's called a defense tactic.

Q. Well, I—I think you probably answered that. But what—you did use the words that's what's called a defense tactic, right?

A. And—yes.

Q. And what you meant was the tactic of taking one paragraph

of the Complaint and focusing all the attention on that. And that was the defense tactic, right?

A. Right. Another big gap, you know. That's—

Q. What's the big gap that you keep—that you're referring to here? The fact that he didn't write all that down?

A. No; no. I'm—I'm looking at his notes.

Q. When you say another big gap, what do you mean? What's the—what's the other big gap you're talking about?

A. I have—I have—

Q. Are—are you referring to the fact that he doesn't go into a lengthy description of what the defense tactic is?

A. I'm talking about spaces, big spaces where—

Q. Well, you're talking—you talking about physical spaces on this paper?

A. Physical spaces.

Q. That's what's called a double space.

A. Well, it looks like a mighty big space. It doesn't appear when

he's interviewing other people.

Q. Well—

A. I mean, take a look—

Q. It most certainly does, Mr. Angino, but I don't want to argue with you about it.

A. We don't have to argue, but—

Q. It most certainly does. Obviously, this computer is on a format that ordinarily has what you and I would call a double space between every line. And then if you hit the—the return bar twice, you'll get, you know, the larger space. And so obviously, he's hit the return bar twice to create what you call these big gaps, right, to signal a new thought. Isn't that a perfectly normal way of taking notes? When you take notes in—

A. What I'm going to say—suggest to you is, this does not appear to be following—

Q. I'm not sure I understand.

A. —a logical progression—

Q. I'm not sure I understand that.

A. —as—as we discussed it.

Q. Are you suggesting that the notes are out of order?

A. No. I'm suggesting that there's potentially several things. Number one, I talked for a while on this particular area, and he didn't find anything that—what I was saying that was worth putting down here. Or secondly, and that's why I have some follow-up request for production and Interrogatories, has anything been deleted, you know. This would, from my experience, potentially show up as deleting things that appear.

Q. But the only—when you—when you say big gap, all I understand you to be saying here is that you gave an explanation of the defense tactic, and the explanation is not there, but the topic sentence or the main point that is the defense tactic is there?

A. Yeah. But how in the world can you just put down that's called a defense tactic without even knowing what I said. I mean, you know—

Q. That's—that's not an answer to any question, Mr. Angino.

A. All right.

Q. There's nothing left out of here from what you can tell, other than your—

A. My explanation.

Q. —your account of what the tactic was?

A. Right. That's all.

Q. And then the notes say, that is the kind of thing that Bennett is on her side, Al Gores—

A. And see that, that—

Q. —intends to call Ms. Gore, strategy, this was a particular situation Ms. Gore was interested in, Dionne Warwick.

A. And see, that doesn't tie in at all. That's the kind of thing that—

Q. Did you say those things, or is that—is that a—are those obviously notes that were made of statements that you were making?

A. Well, that is the kind of thing that went up above, with that's what's called a defense tactic, you know. It obviously did.

Q. So he hit the space bar at the wrong point. Okay. That's all—that's all we can conclude from that?

A. Whatever. Whatever you want to conclude from that.

Q. Then he goes on, and he talks about Bennett and Gore?

A. And see, that left out all of my discussion as to what a wonderful person Mrs. Tucker is. I mean, you know, I explained to—

Q. Well, up above, he writes down your statement that she is one of the most respected individuals in the African/American community, right?

A. Yeah. But I mean I talked—

Q. What else did you say about her?

A.—I talked to him about the history of 1993 through 1997. I talked to him about Bennett, I talked to him about Al Gore's wife, Tipper Gore. I talked to the fact that Tipper Gore, I think, was initially involved in this anti-gangsta rap type of thing. And I—I could tell from his voice, oh, hi, yeah, you think you even know—you think she even knows Tipper Gore.

You know, when you talk to people, it was like he was giving me lip service and challenging me, yeah, you think the vice-president's wife is going to come into a courtroom and talk, you know, on her—you know, it's like he was belittling what I was saying, like he didn't really believe what I was saying. A strategy—this was a particular situation Mrs. Gore was interested in, Dionne Warwick.

That involved that whole history of Tipper Gore being involved, Dionne Warwick being involved in 1993, what happened from 1993 to 1997, which shows to me that he didn't care about what I was telling him. The story was already prepared to talk about sex in the lyrics, and that was it.

Q. What—what is it that shows you that he wasn't interest in what you were saying?

A. Because he doesn't have what I—

Q. He doesn't have enough detail down? He—he didn't take down—

A. How can he write a story if he doesn't have my story.

Q. He didn't take down enough of what you wanted him to take down?

A. That's right, exactly.

Q. He didn't write about Mrs. Gore, Bill Bennett or any of those things, right?

A. Right.

Q. Okay.

A. Here's a perfect thing.

Q. You do—you do know now that Mr. Roberts had written a previous article about all of this and was familiar with it, right?

A. I know the other article, and to the extent which the article discusses things.

Q. So evidently you weren't telling him anything he didn't know, right?

A. Yeah. But I—I wanted to—if a story was going out, I wanted it to be a fair story. I didn't want it to be a one-sided story. I didn't want it to be a distorted story. Take a look at the—

Q. He wasn't writing a story about the history of the anti-gangsta rap movement, was he, Mr. Angino?

A. Well, he was writing—

Q. The bottom line is, I don't understand what—all I'm asking you to do here is tell me—you said you were going to fill in the gaps, tell me what you said. And instead what you're doing is you're complaining that he had some fixed idea about his story. I know—I know you don't like the story. I just want you to fill in the gaps. What did you say, are these notes accurate or inaccurate, and tell me what else you said that—that's not here?

A. Right. I filled in the gap there. I told him about this whole history of things. The next area is, I told him that the record and

everything else in the Complaint is intertwined. Do you see that? Put out a record to defame her. It's all intertwined. I said the record was merely the last straw. It was basically, if you look at the thing, it started out with the lawsuits, it went into the depositions, it went into the investigation, it went into this. I said it's all intertwined. You can't talk about the—the lyrics without talking about all of the other things. That—that's what that says. Put out a record to defame her. It's all intertwined, okay.

Then, there is another gap. What I suspect is that the major companies involved here, I'm trying to bring him away from Tupac Shakur to the other companies, Seagrams and Time Warner. They know they're wrong in supporting. I don't know what will happen. So what I was telling him is look, what we're seeing is this—is Tupac Shakur. Everything is being lyrics, Tucker, Shakur. There are 11 other defendants here. The reason we brought the lawsuits against Seagrams and Time Warner and Iovine and the other people, was basically to show that they're the money behind it. Nothing happens

without those six major companies that distribute music.

So that—you know, you can't take this Complaint and just say it's a suit against Tupac Shakur. It's a suit against 12 defendants. This is what I told him. But you know, what the story came out to be, it was against Tupac Shakur, it left out the other 11 defendants. I'm saying they know they're wrong.

Q. So this is what you were explaining in the portion of the notes that say what I suspect is that major companies involved here, Seagrams and Time Warner, they know they are wrong in supporting. I don't know what will happen. And you elaborated along the lines of what you just said?

A. Along the lines.

Q. And then did you say—

A. He—he—he then asked me what do you think will happen. And I—and he wanted to find out will this case go to trial, or will it get settled. And I said, I can't discuss whether the case is going to go to trial, or a case is going to get settled. I said, you know, that's something we'll. just have to wait and see. If this case winds up in trial, Dr. Tucker has a lot of friends who respect her in high positions,

I said that. Have him talk to Gore, that was where he questioned whether Tipper Gore would testify. And then—and I haven't talked to either of them, these people would support her if I asked her. That's what I said. I would be surprised if the matter isn't up for trial for a year. I basically told him that at the Eastern District, cases come to trial within a year. Her case against California has been going on for two years, pointing out that this matter is going to move—this case is going to move rapidly. And basically, I think you've gotten out my side of what the conversation was.

Q. Okay. Now, this conversation, did it, to the best of your recollection—is the sequence of Mr. Roberts' notes correct, I mean, that the extent that he refers to these different subjects, is it your recollection that they did get discussed in the order in which he's got them down here?

A. I couldn't dispute that, you know.

Q. And it does appear from your account that you had—gave him some—somewhat lengthy—

A. Explanation.

Q. —explanations of the involvement of these other defen-

dants, of the involvement of Mrs. Gore and Mr. Bennett of the 11 days of depositions, of all that happened in that other case?

A. Sure.

Q. And that the discussion of the loss of consortium claim was only one of many subjects you discussed in that conversation?

A. Absolutely.

Q. And the conversation we know, lasted only about 14 minutes in—in total, right?

A. Fifteen, I think, but whatever.

Q. Fourteen and a fraction. And so it's fair to assume, I take it, that the discussion of loss of consortium count was a small portion of that 14 minutes?

A. I would guess that—my recollection is 14.9 or 14.7 or something like that. If I were to apportion the discussion of the loss of consortium, I would say it probably was one, two or three minutes out of all of that.

Q. Fair enough. Now, you prepared a—

MR. BAINE: We have a lot of hungry people here. Okay, we'll break for lunch in a minute.

BY MR. BAINE:

Q. You prepared a memorandum of your conversation with Mr. Roberts in December of 1997, correct.

A. I prepared it at some point, yes.

Q. December 11th, 1997. And you prepared that memorandum after a conversation with me, in which I indicated to you that Mr. Roberts—I indicated to you what Mr. Roberts' recollection of the conversation was, right?

A. That's right.

Q. And at that point, you became aware that Mr. Roberts was going to be testifying to an account of the conversation that would tend to exonerate him. And at that point, you prepared a memorandum of your own version of the conversation, correct?

A. Correct.

Q. And you sent that memorandum to me?

A. Yes.

Q. That was the first time you ever prepared any notes or memorandum of that conversation?

A. Correct.

Q. So when you finished this conversation with Mr. Roberts on

August 20th, 1997, and you got off the phone, and you thought, you know, he's going to write this up the way he wants. And it's not going to come out the way I want. You didn't, at that point, prepare a memorandum contemporaneously recording what you had said to Mr. Roberts?

A. Correct.

Q. Did it occur to you that perhaps you should do that, because if Mr. Roberts wrote an article like the articles that had already been written and published, that you might want to sue him?

A. No. I didn't think of suing Newsweek until Time came along.

Q. In other words, if—if—if the Time article had not come out repeating this, you would not have sued Newsweek?

A. I don't know. But I'm giving you—I'm giving you the story.

Q. It didn't—it didn't occur to you to sue Newsweek until you saw it in Time as well?

A. Right.

Q. Okay. Thanks a lot, Time.

A. We just had had enough by that time, you know.

Q. Now, let me show you what's been marked as Angino Exhibit Number-24, which is your memorandum that you prepared and sent to me in December, with a cover letter to me that's dated December 12th. And your memorandum, which is—begins on the third page of this document, purports to describe the conversation. Does that memorandum describe the conversation, in the sequence that you remembered at the time?

A. I don't think so. But let me take a look at it, because I haven't looked at it since I probably sent it to you, all right.

Q. Okay.

A. No, this isn't the sequence. The sequence is discussing the constitution. That was the first thing that we talked about.

Q. What this memo suggests on the bottom of page 1 is that Mr. Roberts began the conversation by explaining "He was writing an article dealing with the various lawsuits against Tupac Shakur's estate." Is that how the conversation began?

A. That, I don't remember. I—I put that here, but I'm saying right now, I don't remember how the conversation started.

Q. Did Mr. Roberts, early on in the conversation, refer to Mr. Fischbein?

A. I don't recall Fischbein's name coming up, except I probably said Fischbein's spin at some point in time then.

Q. You don't recall Mr. Roberts saying that—you don't recall Mr. Roberts mentioning Mr. Fischbein's name?

A. Not today.

Q. When you wrote the memo on December 11th, you wrote at the bottom of page 1, "He," Johnnie Roberts "stated that Fischbein considered our lawsuit the weakest action of all."

Is that your recollection today?

A. No.

Q. So that today you don't recall that Mr. Roberts said that to you?

A. No.

Q. Okay. And then your memo says, "Roberts gave Fischbein's spin as to our lawsuit being one whereby we claim that the Tucker's sex life had been affected by Tupac's recording."

Is that your recollection today that Johnnie Roberts said that?

A. Nope.

Q. Okay. So as you sit here today, you don't recall that Mr. Roberts said to you that Mr. Fischbein had explained that this was a lawsuit whereby you were claiming the sex life had been affected?

A. No.

Q. Okay. You indicated in your memo that you asked Mr. Roberts "if he had read our Complaint." Is that your recollection today?

A. That's clear.

Q. He said he did?

A. Right.

Q. And you recall him saying that?

A. Yes.

Q. Did you actually ask him to get the Complaint out and look at the paragraph dealing with damages?

A. Yes. All of that is clear.

Q. Okay. Did you point out to him that there was absolutely no mention of sex in any of the paragraphs?

A. Yep.

Q. Did you specifically direct his attention to paragraph 50?

A. Yes.

Q. Did you direct his attention to paragraph 50 initially, or did he ask you about loss of consortium initially?

A. He talked about loss of consortium, but I directed him to paragraph 50.

Q. Okay. So he mentioned loss of consortium before you directed him to paragraph 50?

A. Right. Basically, we're using loss of consortium. He didn't use the word loss of consortium. He basically talked about sex. And I said is that all you guys want to talk about is sex. Take a look at the Complaint, look at paragraph 50.

Q. So you directed his attention to paragraph 50?

A. Right.

Q. And you told him that in very rare circumstances, a claim of loss of consortium can involve an interference with sexual lives of husband and wife, right?

A. Right.

Q. Now, you write in your memo that you "pointed out to Mr. Roberts that our consortium claim in this case did not in any way

involve any claim that Tupac Shakur's defamatory recording affected the Tuckers' sex life."

Now, when you wrote this memo, of course, you weren't under oath. You've indicated earlier that you are under oath today, and today you cannot say that you specifically said that the claim is not one involving sex, right?

A. I've testified for as much as I can remember today, under oath or not under oath. I don't write any differently whether I'm under oath or not under oath.

Q. But—but today, you can't recall specifically saying to Mr. Roberts that the case does not involve sex, right?

A. I said what I said. The best I can recollect is, I said in every way, shape or form, that it didn't involve sex. Whether I actually used the word, I would be less than candid if I said that. I can remember that exactly.

Q. Do you remember exactly saying that there was no use of the word sex in the Complaint?

A. Yes. Yes. I said the word sex never appears in the Complaint.

Q. And then there followed the discussion about what consortium meant, and how it can include sex, but that's one of the less significant aspects in human relations?

A. Right.

Q. And then there's the reference in this memo to the—to the discussion of Mrs. Gore. And then the reference to the Falwell/Hustler suit. And now you're telling us today that this memo does not correctly place that conversation in sequence, right?

A. That was the first area of discussion. I don't think I intended to prepare this memo as a chronological—

Q. Now, let me just ask you a question without regard to the memo for a second. You indicate in the—in the first page of this memo, before you get to the conversation with Mr. Roberts, that you recommended, because of their high profile, the Tuckers' high profile, that they go on a speaking circuit.

Is that—did you tell Mr. Waters that he should tell the Tuckers to actually affirmatively go out on the speaking circuit and make contact with people to explain all of this and not wait passively for

press inquiries?

A. I did.

Q. That's what you wanted them to do?

A. I did.

Q. Are you aware of the fact now that they did not do that?

A. I'm aware of what they did.

Q. That—that—that meant what they did, it was not to go on the speaking circuit, is it?

A. All—all they did was respond to supposedly that—those four people that showed up on the 4th or 5th.

Q. Right. All they did was passively answer questions by people who came to them, right?

A. That's right.

Q. And we now know that when Mr. Tucker passively answered the questions, he did not unequivocally say my case has nothing to do with sex. He said it's just a small part of it, right.

A. We see what we see.

Q. Okay. Now, in your memo, and I realize at the time that you wrote the memo, you didn't—you hadn't sat through the depositions and looked at the articles that were written.

But in the memo you wrote, "Despite the Tuckers' public announcements to the news media that the word consortium in this case did not refer to sex, and they were making no claim for sex damages," et cetera. As we sit here today—

A. Where—where are we?

Q. Third paragraph of the memo.

A. Mr. Robert mentions Falwell/Hustler ...

Q. No; no; no; no. Third paragraph of the first page of the memo.

A. Oh, you're back to the first page.

Q. Yeah. First page, sorry. You see the words "Despite the Tuckers' public announcements to the news media."

A. Right. Because I had assumed that they had.

Q. Right. And that's what I'm getting at. When you wrote this memo, you assumed that they had made public announcements to the news media that the word consortium in this case did not refer to sex, and that they were making no claim for sex damages, but now you realize that they did not?

A. Right.

Q. Okay. And did you mention to Johnnie Roberts in your

telephone conversation with him, the Tuckers' statements to the news media that you assumed that they had made, but didn't know that they had not made.

A. I don't know.

Q. Okay.

A. I—I would have said to him, and I think I did say to him, and if I really recollect it's—I was frustrated by what I had said to the media in response to calls that they had made to me. So I know I said what I had done. I don't recall saying the Tuckers had done anything.

Q. Okay. In your memorandum of December 11th on page 2, in the third full paragraph, you say in the second sentence, "I became exasperated and went through the entire history from the time of the filing of the Complaint to the article in the Philadelphia newspaper, to the Tucker's going out at my suggestion and pointing out publicly that our lawsuit had nothing to do with sex."

I take it, as you're sitting here today, you—you don't recall that you specifically discussed that with Mr. Roberts?

A. No.

Q. Okay. And is there anything—

A. Let—let the record show that I wrote this before I ever saw Johnnie Roberts' record of what had—we actually talked about.

Q. But after you spoke with me about the substance of that conversation and about the different recollections of the conversation?

A. Right.

Q. And this memorandum was not written in the regular course of business here at Angino & Rovner. This memorandum was written specifically in response to my indication to you of what Mr. Roberts' recollection of the conversation was?

A. Absolutely. But I'm saying, I sat down after that conversation and dictated this, and did not intend it to be in a chronological order. Because I said here, this will be confirmed by a long distance telephone log. I—I felt there eventually would be a log that would tell us how long we had talked.

Q. Did you—who prepared the Amended Complaint that was drafted after the publication of the Newsweek article?

A. Probably me.

Q. Do you have a specific recollection of being the person who did it?

A. I think so. I think so. I think you'll find that after a certain point, I took over.

I mean, you know, I get to a certain point in the case, and then I start doing just about everything.

MR. BAINE: This would be a good time to take a break for lunch. Some people are hungry, some people are not.

MR. ANGINO: Yeah.

MR. BAINE: We'll try to make it a quick lunch break.

MR. ANGINO: I was going to say it's going to be difficult to have quick lunches, unless you want fast food.

MR. BAINE: Let's go off the record.

THE VIDEOTAPE TECHNICIAN: Off the video record at 1:57. This is the end of tape two.

(Luncheon recess.)

THE VIDEOTAPE TECHNICIAN: We are back on the video record at 2:53. This is the beginning of two 53 beginning of tape three. Proceed.

BY MR. BAINE:

Q. Mr. Angino, Mr. Roberts notes in his conversation with you containing the following statement that I read to you before, we're talking about all of this affecting Tucker. If someone affects you physically, mental, et cetera, they have affected the family union.

Did you make a statement to that effect?

A. Probably.

Q. What did you mean when you referred to someone affecting you physically? In this case, what was your understanding of how the actions you had claimed, had affected the Tuckers physically?

A. I don't think I was referring to this case. We were talking about consortium claims and talking about family unions, and we were talking about what is a consortium count, how it's affecting somebody in all the different ways.

Q. Did you say with reference to this case that the claim, in essence, was that the defendants had affected the family union?

A. I don't think I did. I think that was more, again, a generali-

zation of when there's a consortium count, the family union is affected. I don't think I specifically referenced this case, these factual circumstances.

Q. Immediately in the preceding sentence, in the notes anyway is—we're talking about all of this affecting Tucker. And then it says it affected the family union. So do you think that you could well have said with respect to the Tuckers that these lyrics had affected the family union?

A. Sure. That's fair.

Q. That is the quote that's attributed to you in the Newsweek story, which has been marked as Exhibit-25. It says "Her attorney, Richard Angino, says the lyrics 'affected the family union.' "

That is not a misquotation, is it?

A. I don't think so.

Q. After your conversation with Mr. Roberts, did you discuss that conversation with—with anyone?

A. I did say it to somebody, because I was frustrated. And I've been trying to rack my brain as to who I said it to. I knew—you know, it was one of those things, you finish a conversation and you go out, and I said I just got off the phone with this guy, you know, for all this

time, and he is just not listening to me. He's going to write what he wanted to write, why did he even talk to me for, you know.

Q. You—you—you think you said that to somebody, but you can't remember who you said it to?

A. That's right. And it would have been somebody in the office and ...

Q. Have you asked people around the office whether or not they recall your making a comment to that effect?

A. I haven't done that up to this point, no.

Q. If you do, at some point, discover who it was you had that conversation with, will you let us know?

A. I will absolutely let you know.

Q. Thank you.

Did you, Mr. Angino, prior to the time that you actually were filing a Complaint against Newsweek and Time, did you discuss this conversation that you had with Mr. Roberts with Mr. or Mrs. Tucker?

A. Yes. I think so.

Q. That would have been in connection with the discussion

about filing the lawsuit?

A. Yes. The issue still was why we should do this. What I told Mr. and Mrs. Tucker is, enough is enough. I talked to Johnnie Roberts, I told him this case didn't have anything to do with sex. I filed an Amended Complaint. I served Time Warner, and they went ahead and basically then filed another article. You know, it was like, what do you have to do to get these people to listen, you know.

Q. But, did you talk to the Tuckers specifically about the Amended Complaint, the First Amended Complaint, not the Second Amended Complaint?

A. I don't think so. I think I talked to the Tuckers about the Complaint that was going to—or again, we're getting our people mixed up. I did talk to them about the original Complaint against Time and Newsweek, if that's what you're talking about.

Q. That wasn't my question, that was going to be my next question. I take it that you did talk to the Tuckers about the Complaint against Time and Newsweek. You did not talk to them specifically about the First Amended Complaint in the case against MTS and Interscope?

A. I just did that automatically.

Q. And the Second Amended Complaint against MTS and Interscope, I believe, was filed at the same time as the Complaint against Time and Newsweek, right?

A. Right.

Q. And it was in connection with those pleadings that you had the conversation with Mr. and Mrs. Tucker?

A. It was mainly in connection with what was the suit against Time and Newsweek, because we sat down, and we said enough is enough. You know, I had this conversation with Newsweek, we sued Time. We actually, you know, served Fischbein with the other Amended Complaint. And they were just all ignoring us. So what we need to do is we need to file this suit against Time, Newsweek and Fischbein.

Q. And would it be fair to say, again, Mr. Angino, that the idea to file the new suit against Time, Newsweek and Mr. Fischbein was your idea?

A. Yes.

Q. That was not Mr. Tucker's or Mrs. Tucker's idea?

A. That's correct.

Q. And your purpose in filing that Complaint, if I understand

your testimony correctly, was to put an end to these kinds of reports?

A. Frankly, it was several things. This was, I think, at or about the time of the Diane situation. It was at or about the time with the Albert situation. It was at or about the time when the media to me was just out of control. And you know, I'm saying this, but maybe it won't show up actually that it was. But in effect, I felt that the media didn't care what they said about whom, and that—when I sat down with the Tuckers, I said, we've got to do something. It appears as if the press doesn't care what they write about whom and whatever harm is done to those people. And that was really a substance and basis for that lawsuit.

Q. When you referred to the Diane situation, you're talking about Princess Diane's death?

A. Yes. Maybe I'm wrong. I didn't, you know, I'm just—I don't know when she died, you know, I'm just thinking that somewhere in my mind, we were—I was upset with the media, you know.

Q. And when you talk about the Albert situation, you're talking about the reporting of the criminal charges against the sports caster

Marv Albert?

A. Right. Now as we talk about this, maybe that happened later in the year. I don't know. But all I'm saying is—

Q. Regardless of whether those particular reports were taking place at that particular time, what you do remember is that you felt the media was out of control?

A. Yes.

Q. And that was part of your thinking that this—it was time for you to bring a lawsuit against Time and Newsweek and Mr. Fischbein?

A. Yes. And obviously my clients agreed that the media was out of control and agreed to do this, you know.

Q. But this did not originate with them coming to you and saying, Mr. Angino, we've been injured in the following ways, and we would like you to seek some kind of legal remedy for that. That's is not how it came about?

A. I think they communicated to me that they were the laughingstock in the world. That hurt them.

Q. When did they communicate that to you?

A. Oh, it probably had to do when we sat down, and we were discussing bringing this lawsuit, you know.

Q. Okay. So, in other words, when you—when you suggested to them that the media was out of control, something had to be done, you then had a conversation during which they said to you they felt they were the laughingstock?

A. Right.

Q. You indicated earlier that you believe that you prepared the Amended Complaint; right?

A. Yes.

Q. Let's look at Exhibit Number-26, which is the Amended Complaint that was filed September 2nd, 1997. Do you recall what the amendment was to the Complaint that you made at that time?

A. I don't. But I assume it had something to do about talking about what Fischbein was doing. And I'm assuming that it occurs on page 8, where we're saying "Defendant Co-adminstrator of the Estate of Tupac Shakur has continued to defame and harass plaintiff by holding her up in a false light even after the complaint in this

matter was filed on June 21st, 1997.

"Defendant Fischbein made false and misleading statements regarding the claim herein, through published statements that C. DeLores Tucker filed suit because of a 'loss of her sex life.' This statement was untrue, and Defendant Attorney Fischbein should have known it was untrue."

Q. And what prompted your decision to file this Amended Complaint, I take it, was the appearance of the Newsweek article which hit the newsstands on August 25th, the week before this Amended Complaint, right?

A. Well, that, and also the Philadelphia article where Fischbein was quoted as of August 2nd. Those two things were situations where I said this Fischbein guy is out of control.

Q. And as of the date of this Amended Complaint, September 2, 1997, you were aware of the Newsweek publication and had decided to amend the existing Complaint against Mr. Fischbein, but not to sue Newsweek?

A. At the present time, right.

Q. And subsequent to that point, did you ever contact Newsweek and ask them to retract, correct, or clarify the publication

that they had made concerning your lawsuit?

A. It's just like in a court of law. Once something is out, to have somebody reiterate the thing again, doesn't really relieve the damage. To answer your question, no.

Q. And you didn't send a letter to the editor for publication or anything like that?

A. No.

Q. So, there was nothing that Newsweek did or that you did in connection with Newsweek after September 2nd, 1997, before you actually sued Newsweek, right?

A. That's correct.

(Attorney Hours By Case was marked as Angino-39; Attorney Hours By Case With Comments was marked as Angino-40 and Para & Law Clerk Time Sheets were marked as Angino-41 for identification.)

BY MR. BAINE:

Q. Now, if we could, at this point, take a look at some of your time records. I just want to see if we can draw some conclusions about who was doing what kind of work at these various times.

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16 September 1998

Mr. Richard C. Angino
4503 N. Front St.
Harrisburg, PA 17110-1708

Dear Mr. Angino:

I am happy to respond to your letter and call about reviewing the court documents involving Delores Tucker.

By way of background, I was a reporter with United Press International for nearly 30 years, most of them in Washington. For the past nine years I have been on the faculty of the University of Missouri School of Journalism, and have authored several books, including An Ethics of News: A Reporter's Search for Truth (Georgetown, 1989). My resume is enclosed.

I assert in Ethics that the reporter's main responsibility is to discover the truth in whatever the assignment is. I define truth as simply being "the heart of the matter," but that it also surely includes the dimensions of fairness and accuracy.

As a preliminary opinion, it seems to me that any news account that reduces Mr. Tucker's claim of "loss of consortium" to being merely, and especially, a diminished sexual life, is wrong and a violation of basic journalistic ethics.

Cordially,

Wesley G. Pippert
Director and Associate Professor of Journalism

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Washington Program
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29 September 1998

Mr. Richard C. Angino
Angino & Rovner, P.C.
4503 N. Front St.
Harrisburg, PA 17110

Dear Mr. Angino:

This letter constitutes my report as required under the Federal Rule of Civil Procedure 26(a)(2)(B):

1. Complete statement of all opinions to be expressed

I will testify that the primary task of a reporter is to report and write the truth, which I define as "the heart of the matter," in whatever the story happens to be. The thrust of one particular story may not focus on this, but the overall thrust of the story or the body of stories about a particular subject must meet this criteria. The truth clearly contains the ingredients of accuracy and fairness.

2. Basis and reasons for the opinions.

I base this opinion on 30 years as a reporter with United Press International, including extended assignments in two state capitals, Congress, the White House, and an overseas posting, and as author of seven published books and more than 100 articles. One of the books, An Ethics of News: A Reporter's Search for Truth, 1989, Georgetown University Press, develops these thoughts. I base it also on my readings in the field, and especially, my conversations and friendships with uncounted numbers of journalists over the years.

3. Data or other information.

4. Any exhibits.

5. Qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years.

My resume is attached, along with a list of my publications.

"Spotlight on Africa: Advice from Annan," Christian Century, 1 April 1998.

The Washington Post, short pieces for its website on the Inter-American Development Bank's Cultural Center, Mexican Cultural

Center, and Susan Conway Gallery.

Reviewed Telling the Truth, by Marvin Olasky, in QV, February 1997.

One of several scholars and journalists interviewed for study on "Personality and the Presidency," Technical Report No. 11, October 1996, by Thomas R. Faschingbauer, Steve Rubenzer and Deniz Ones.

Essay in Lamp Unto My Feet, ed. Art Toalston, HarperSan Francisco, 1997.

"Christians in the Secular Press," Moody, December 1995.

"Slain Are the Peacemakers: How Israel's Hawk Became a Dove," Christianity Today, 11 December 1995.

Edited Regional Arms Control: Middle East Perspectives, by Search for Common Ground, 1995.

"Peeking through Keyholes: It is not the role of the media to play censor, but saturation coverage demands careful coverage," Iowa Alumni Review, Autumn 1994.

"What To Do Now If You Want To Be a Foreign Correspondent," The Responsible Reporter, ed. Bruce J. Evenson (Northport: Vision Press, 1995).

One of the writers for official report on "Safeguarding Our Youth: Violence Prevention for Our Nation's Children," a forum sponsored by the Departments of Justice and Education, 20-21 July 1993.

Article on the investigation of National Medical Enterprises for Alcoholism and Drug Abuse Weekly, September 1992.

"No man's land: Israeli deportations and ensuing unrest underline instability," World magazine, Jan. 9, 1993.

"Why Switch? Boredom and burn-out push many from newsroom to classroom," based on survey of about 40 working journalists who went into academia, Quill, April 1992.

"Latest Squabble Not A Cause For Divorce," three experts assess state of the U.S.-Israeli relationship, World, March 28, 1992.

"Awesome Beauty in the Heartlands," cover story in Avis Traveler, January 1992.

"Discover the New York New Yorkers Know," Avis Traveler,

The Hand of the Mighty: Right and Wrong uses of our Power. 166pp., (Grand Rapids: Baker, 1991).

An Ethics of News: A Reporter's Search for Truth. (Washington: Georgetown University Press, 1989).

Review of God in the White House: How Religion Has Changed the Modern Presidency, by Richard G. Hutcheson Jr. (New York, macmillan, 1989). in Perspectives: A Journal of Reformed Thought. June 1991.

"How Does the President Stand with Evangelicals," Moody Monthly, January 1991.

Review of Blessed are the Peacemakers: A Palestinian Christian in the Occupied West Bank, by Audeh Rantisi and Ralph Beebe, in News Network International's NNI Review, January 1991.

"Worldly Reporters and Born-Again Believers: How Each Perceives the Other," in American Evangelicals and the Mass Media. ed. Quentin J. Schultze (Grand Rapids: Zondervan, 1990)

Contributed one of 20 essays (along with Pope John Paul II, Alan Paton, C. William Pollard, Malcolm Muggeridge and others). Letters to Graduates. (Nashville: Abingdon, 1990).

"Laid-off in Mid-life," the Washington post, 15 Nov. 1990.

Contributed to "The Role of News Services in Religious Programming," Religious Broadcasting, November 1990.

6. Compensation to be paid for the study and testimony.

This has not been discussed.

7. Listing of any other cases in which the witness has testified as any expert at trial or by deposition.

None.

Thanks.

Cordially,

Wesley G. Pippert
Director and Associate Professor of Journalism

Appendix

WESLEY G. PIPPERT

Professional:

Associate Professor of Journalism and Director, Washington Program, University of Missouri School of Journalism, 1989- . Tenured as of 1993.

Special Assistant, Rep. Paul B. Henry, R-Mich., 1989.

United Press International, 1955-67, 1969-88:
Senior Middle East Correspondent, 1986.
Manager for Israel, 1983-86.
Congress, 1981-83 (Beat: social legislation).
The White House, 1975 (Ford), 1977-81 (Carter).
Principal UPI reporter, Carter campaigns, 1976, 1980.
Principal UPI reporter, Watergate, 1973-75.
McGovern presidential campaign, 1972.
Cultural affairs reporter in Washington, 1971-83.
Washington overnight editor, 1969-71.
Minneapolis, Bismarck, Sioux Falls, Pierre, Chicago bureaus, 1955-61.

Press aide, Sen. Charles H. Percy, R-Ill., 1967-68.

Academic:

Wheaton College, M.A., 1966.

University of Iowa, B.A., with honors, 1955.

Near East School of Archaeology, Jerusalem, certificate, 1964.

Honors:

Fellow, Institute of Politics, and Fellow, Center for Press, Politics and Public Policy, Kennedy School of Government, Harvard University, 1987.

Journalism Fellow, National Endowment for the Humanities, University of Michigan, 1975-76.

Congressional Fellow, American Political Science Association, 1966-67, (Rep. Morris K. Udall and Sen. Charles H. Percy).

Phi Beta Kappa and Class Marshal, University of Iowa, 1955.

Sigma Delta Chi professional journalism fraternity, scholarship award, University of Iowa, 1955.

Author of:

The Hand of the Mighty: Right and Wrong Uses of Our Power.

1991, Baker Book House.

An Ethics of News: A Reporter's Search for Truth, 1989, Georgetown University Press.

Land of Promise, Land of Strife: Israel at 40, 1988, Word.

The Spiritual Journey of Jimmy Carter, 1978, Macmillan.

McGovern chapters in Jaws of Victory, ed. Clifford Brown, 19[illegible], Little, Brown. Lead reviews in the New York Times and Washington Post, which singled out Pippert's chapters as especially newsworthy for his "masterful prose."

Memo for 1976: Some Political Options, 1974, InterVarsity Press, rated by Eternity magazine reviewers as one of the 25 most significant books of the year for evangelical audiences.

Faith at the Top, 1974, David C. Cook Publishing, a collection of biographies.

Missions and Reconciliation, 1969, United Methodist Board of Missions.

More than 100 articles in 50 publications, including the New York Times op-ed page, Chicago Tribune Sunday magazine, Quill, Christian Century and Christianity Today.

Speaking:

About 100 colleges and university and professional groups.

Adjunct professor of English, Gordon College, fall 1986, 1987.

Adjunct professor of journalism, Virginia Tech, 1975-80.

Instructor, New College at Berkeley, summer 1980.

Instructor, C.S. Lewis Institute, Washington, autumn 1979.

Local Preacher's license, United Methodist Church, 1957- .

Lay pastor, Blunt-Harrold (s.D.) Methodist churches, 1957-61.

Personal:

Born, 13 May 1934, Mason City, Iowa
Two children, Elizabeth, born 1985, and David, 1986.

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September 16, 1998

Richard C. Angino
Angino & Rovner
4503 Front Street
Harrisburg, PA 17110-1708

re: Tucker v. Time and Newsweek, et al.

Dear Mr. Angino,

Thank you for the opportunity to review this matter. I have reviewed the definitions of consortium, the complaints, the articles included that related to Ms. Tucker (exhibits to complaint), deposition of Johnnie L. Roberts, documents referred to in that deposition, Newsweek researchers' manual, Newsweek memos relating to research, deposition of Belinda Luscombe, documents referred to in that deposition, Time Editorial Guidelines, deposition of Richard Angino and deposition of Paul Waters.

After reviewing these materials, I would be willing to testify to the following:

1) news articles based on primary research that referred to the Tuckers as claiming that their sex lives were affected by Tupac's lyrics failed to conform to reasonable journalistic standards;

2) depositions of J. Roberts and B. Luscombe indicate that the reporting that resulted in the characterization of the Tuckers' complaint as regarding their sex lives failed to conform to reasonable journalistic standards, including the standards set forth by their news organizations;

3) there is indication that decisions to report the complaints as related to the Tuckers' sex lives were made with a disregard for the truth.

Any formal written or oral testimony will include specific references to depositions, exhibits, research guides/editorial policies, professional society codes of conduct and ethics (including Society for Professional Journalists, Associated Press Managing Editors and American Society of Newspaper Editors), and newswriting/reporting textbooks that are used to teach fundamental standards to future journalists.

Sincerely,

Deni Elliott

DENI ELLIOTT
P.O. Box [illegible] Laramie, Wyoming 82071
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FAX 406.273.6616
VAX deni@sabway.uml.edu

October 4, 1998

Richard C. Angino
Angino & Rovner
4503 Front Street
Harrisburg, P.A. 17110 1708

via FAX: 717 238 5610

Dear Mr. Angino,

Regarding the requests by Mr. Williams of 9/28/98:

1. My statement of opinions was included in my letter to you dated 9/16/98.

2. The basis and reasons for the opinions were formed through my careful reading of documents that you provided, specifically, the complaints, the news stories included in exhibits to complaint, depositions of Johnnie L. Roberts and Belina Luscombe, Newsweek researchers' manual, Newsweek memos relating to research, and Time Editorial Guidelines.

In addition, my opinions were formed through familiarity with codes that express conventions accepted by U.S. journalists. Specifically, my opinions are based on ASNE Statement of Principles, APME Statement of Ethical Principles, and The Society of Professional Journalists Code of Ethics.

The basis and reasons for my opinions were also formed through my 20 years of experience in analyzing standards of journalistic behavior. Some of my published writings relate to opinions I formed in this case. In particular:

1. Elliot D. Cohen and Deni Elliott. *Contemporary Ethical Issues: Journalism.* (Co-editor/Chapter Author) ABC-CLIO, 1998, Chapter 1.
2. "Journalistic Research," *Accountability in Research*, Vol. 4, 1996
3. and Charles Culver, M.D., Ph.D., "Defining and Analyzing Journalistic Deception," *Journal of Mass Media Ethics*, Vol 7, No. 2, Spring 1992
4. "On Deceiving One's Source," *The International Journal of Applied Philosophy*, Vol. 6, Summer 1991, No. 1
5. "Ethics codes/written rules: the problem is the 'writing,'" *FineLine*, Jan. 1990
6. "Identifying AIDS Victims: The Destruction of Dr. Huse," *Washington Journalism Review*, October 1988.
7. "All is Not Relative: Essential Shared Values and the Press," *Journal of Mass Media Ethics*, Vol. 3, #1, 1988.

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8. "Creating the Conditions for Ethical Journalism," *Mass Comm Review*. Volume 14, #3, 1987.
9. *Responsible Journalism*. (Editor/Chapter Author) SAGE:1986, Chapter 2.

3. Data or other information include my current reading of trade and scholarly press regarding reasonable journalistic conduct.

4. Exhibits include those attached to depositions and complaints in this case.

5. My c.v., which I have provided for you, lists my experience and publications.

6. Compensation is at daily rate of $1000/day or hourly rate of $200/hour.

7. The only case in which I have been involved as expert that has gone to deposition or trial within the past four years was an arbitration case involving the Akron Beacon Journal and an employee of that news organization. I do not have the name of this case, but I believe that the hearing took place in Fall, 1994.

As you know, I am not an attorney. Please let me know if you need more detailed information.

Regards,

Deni Elliott

Appendix

Deni ELLIOTT
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CURRENT POSITION

University Professor of Ethics
Director, Practical Ethics Center
Professor, Department of Philosophy
Adjunct Professor, School of Journalism
Book Review Editor, Journal of Mass Media Ethics

EDUCATION

Harvard University: Ed.D., Philosophy of Education, June 1984.

Comprehensive Examinations: Philosophy (passed, April 1983)
Dissertation: Toward the Development of a Model for Journalism Ethics Instruction
Committee: Israel Scheffler, Sissela Bok, Martin Linsky
Qualifying Paper: Media Ethics Literature: A Philosophical Analysis (accepted with distinction, April 1983)
Committee: Israel Scheffler, Sissela Bok, Lawrence Kohlberg

Wayne State University: M.A., Philosophy, December 1982.

Thesis: Ethical Inquiry and Children's Moral Abilities: Some Traditional Views, An Alternative and Implications

Wayne State University: Michigan Secondary Teaching Certification (Journalism, Speech, English), September 1978.

University of Maryland: B.A., Speech Communication minor, Journalism, December 1974.

FUNDED RESEARCH

Development and Pilot Testing of A Graduate Degree Program with a Specialization in Teaching Applied and Professional Ethics, funded by FIPSE, U.S. Department of Education. Project Director. September, 1996-August 1999, $174,000.

Comparative Analysis of Moral Excellence in Business in Japan and America, funded by the International Environmental Institute. Principal Investigator. March 95 - March 96, $10,000.

Curriculum and Faculty Development for the Teaching of Academic Research Ethics, funded by Department of Education (FIPSE). Co-Project Director. Sept. 92-Aug. 95, $219,777.

Production of Educational Modules for the Teaching of Research Ethics, funded by the National Science Foundation (EVS). Principal Investigator. Oct. 92-Sept. 94, $224,999.

The Burden of Knowledge, videodocumentary, funded by the New Hampshire Humanities Council, Montana Committee for the Humanities and the Greenwall Foundation. Co-Producer. Sept. 92-Dec. 93. $58,000.

Ethics & Higher Education Advancement, funded by The Lilly Endowment and Kellogg Foundation. Principal Investigator. Nov. 89-Dec. 92, $320,000.

Ethics and Organ Transplantation, funded by the Peter Kiewit Foundation. Co-investigator on a collaborative project involving the University of Nebraska campuses and Dartmouth. Co-Principal Investigator. June 90-June 92, $134,295.

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COURSES TAUGHT

The University of Montana-Missoula (University Professor of Ethics, 1996; Adjunct Prof., School of Journalism, 1994; Prof. (tenured), Dept. of Philosophy 1992; Mansfield Professor of Ethics in Public Affairs, 92-96)

- Ethics: The Great Traditions
- Ethics Across the Curriculum
- Ethics and Journalism: A Graduate Seminar
- Ethics and Politics: A Seminar for Politicians and Grad Students
- Ethics in Public Affairs
- Ethics in Your Classroom
- Foundations of Moral Philosophy: A Graduate Seminar
- Practicum in Teaching Ethics
- Professional and Public Ethics
- Pro-Seminar in Teaching Ethics
- Research Methods in Ethics

Dartmouth, 1988-1992 (Research Associate Professor of Education, Adjunct Associate Professor of Philosophy, 1990; Research Assistant Professor of Education, Adjunct Assistant Professor of Philosophy, 1988)

- Conflict Resolution in International Affairs
- Ethics and the Professions
- Health, Society & The Physician
- Ideas in Education: Intellectual and Ideological Foundations
- Mass Media and Society
- Philosophy of Education
- Reason and Argument

Utah State University, 1985-1988 (Associate Professor, Department of Communication and Department of Philosophy, 1987; Assist. Prof, 1985)

- Ethics of Mass Communication
- Introduction to Mass Communications
- Mass Media and Society
- Public Relations
- Reporting and Writing for Mass Media
- Seminar in Communications History
- Symbolic Logic

Wayne State University, 1980-84 (Part-time Instructor)

- Moral Judgment and Moral Education
- Practical Reasoning
- Symbolic Logic

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Harvard University, 1982-84 (Teaching Fellow)
Types of Ethical Theory, Harvard College
Workshop in Ethics of the Media, Kennedy School of Government

PUBLICATIONS - Books and Documentaries

Sources and Sorcery.: A New Ethic for News Reporting In Process.

The Humane Abortion (with Rita Sommers-Flanagan) In Process.

1) Elliot D. Cohen and Deni Elliott. *Contemporary Ethical Issues: Journalism.* ABC-CLIO, 1998

2) *Professional Ethics Journal*, Vol. 4, No. 3 & 4. Editor of Special Issue on Ethics in Scientific Research, 1997

3) Judy Stern and Deni Elliott *The Ethics of Scientific Research: A Guidebook for Course Development* Hanover, NH: University Press of New England, 1997

4) Deni Elliott and Judy Stern (senior editor and chapter co-author). *Research Ethics: A Reader* Hanover, NH: University Press of New England, 1997

5) *The Ethics of Asking: Dilemmas in Higher Education Fund Raising.* (Editor and multiple chapter co-author.) John Hopkins University Press. 1995.

6) Carl Greiner and Deni Elliott (eds). *Parts and Parity: Ethics and Organ Transplantation.* Institute for the Study of Applied and Professional Ethics, Dartmouth College, 1995.

7) *The Burden of Knowledge.: Moral Dilemmas in Prenatal Testing.* Writer/Co-producer. Distribution: Direct Cinema Ltd. 1994.

8) *Buying Time: the media role in health care.* Writer/Co-producer. Distribution: Fanlight Productions. 1991
Silver Apple Award, National Educational Film and Video Festival.

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9) *A Case Of Need: Media Coverage and Organ Transplants.* Writer/Co-producer. Distribution: Fanlight Productions. 1990. Bronze Plaque Award, Columbus International Film Festival; Silver Apple Award, Nat. Educat. Film & Video Festival.

10) *Responsible Journalism.* Editor and Chapter Author. SAGE:1986.

PUBLICATIONS - Articles in Refereed Journals

"Social Excellence in Business: An Analysis of KST-Hokkaido and Ben & Jerry's Homemade, Inc." (in process)

"The Myth of Selective Abortion" (in process)

Mary Birch, Mary Trankel and Deni Elliott "A Portrait of the Ethical Professor" (in process)

Rita Sommers-Flanagan and Deni Elliott, "Exploring the Edges: Boundaries and Breaks," *Ethics & Behavior,* (forthcoming)

1) "Researchers as Professionals, Professionals as Researchers: A Context for Laboratory Research Ethics," *Professional Ethics Journal,* Vol. 4, Nos. 3 & 4, pp. 5-16,1997.

2) "Cases for Teaching Research Ethics," *Professional Ethics Journal,* Vol. 4, Nos. 3 & 4, pp. 179-198, 1997.

3) "Evaluating Teaching and Students' Learning of Academic Research Ethics," and Judy Stern. *Science and Engineering Ethics Journal* Vol 2, No. 3, pp. 345-366. 1996

4) "Journalistic Research." *Accountability in Research.* Vol. 4, pp. 103-114. 1996

5) "Defining and Analyzing Journalistic Deception," with Charles Culver, M.D., Ph.D., *Journal of Mass Media Ethics.* Vol 7, No. 2, Spring 1992

6) "Use of Moral Development Theories in the Teaching of Ethics," *Journalism Educator,* Autumn 1991 Vol. 46, No. 3.

7) "On Deceiving One's Source," *The International Journal of Applied Philosophy,* Vol. 6, Summer 1991. No. 1

8) "Family Ties: A Case Study of Coverage of Families and Friends during the Hijacking of TWA flight 847," *Political Communication and Persuasion*, Vol. 5, 1988, pp. 67-75.

9) "All is Not Relative: Essential Shared Values and the Press," *Journal of Mass Media Ethics*, Vol. 3, #1, 1988.

10)"Creating the Conditions for Ethical Journalism," *Mass Comm Review*. Volume 14, #3, 1987.

11)"Standards in Media Ethics: A Conceptual Analysis," *Journal of Mass Media Ethics*, 1 (1), 1985.

12)"Student Press Rights and Tort Liability: A Conflict of Law," *The High School Journal*, 66 (4), 1983.

13)"State Intervention and Childhood Multiple Personality Disorder," *The Journal of Psychiatry and Law*, 10 (4), 1982.

PUBLICATIONS - Book Chapters/Encyclopedia Entries

1) "Media Ethics," *The Dictionary of Business Ethics*., Werhane, P. and Freeman, R., (ed). Oxford, England: Blackwell Publishers, 1998

2) The Great Hanshin Earthquake and the Ethics of Intervention," Cesmir, F. (ed). *International Communication Ethics*. Earlbaum, 1997.

3) "Universal Theories and Moral Development Theories," Christians, C and Traver, M. (eds). *Communication Ethics and Universal Values*. Thousand Oaks, CA: SAGE, 1997.

4) and Marilyn Brown. "Ethics and Animal Experimentation," Elliott, D and Stem, J. (eds) *Research Ethics: A Reader*. Hanover, NH: University Press of New England, 1997.

5) "The Problem of Compassionate Journalism," Black, J. (ed). Mixed News: The Public/Civic/Communitarian Journalism Debate. Mahwah, NJ: Earlbaum, 1997.

6) "Moral Requirements and Picture Choice," in Lester, P. (ed). *Images that Injure: Pictorial Stereotypes in the Media*. Westport, Conn: Greenwood Press. 1996

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7) with Bruce Hopkins, "Law and Regulation." in Elliott, D. (ed.) *The Ethics of Asking*. Baltimore, MD: Johns Hopkins University Press. 1995.

8) with Bernard Gert, "The Moral Context of Fund Raising." in Elliott, D. (ed.) *The Ethics of Asking*. Baltimore, MD: Johns Hopkins University Press. 1995.

9) with Mary Lou Siebert and Marilyn Batt Dunn, "Handling Prospect Research." in Elliott, D. (ed.) *The Ethics of Asking*. Baltimore, MD: Johns Hopkins University Press. 1995

10)"Communication, Biomedical, I. Media and Medicine," *The Encyclopedia of Bioethics, rev. ed.* Macmillan Press: 1995.

11)"Disability and the Media: The Ethics of the Matter," *The Disabled, The Media and the Information Age*. Jack Nelson (ed). Westport, Conn: Greenwood. 1994

12)"Ethics and Mass Communication," *Mass Communication: The Production and Consumption of Information*, Todd Hunt and Brent D. Ruben (eds.). Harper/Collins 1993.

13)"What Counts as Deception in Higher Education Development," *Taking Fund Raising Seriously*, Dwight F. Burlingame (ed). Jossey-Bass 1991

14)"A Case of Need," *Risky Business*, Lee Wilkins (ed.). Greenwood: 1991

15)"Cases and moral systems," "A case of need," "The doctor has AIDS," *Media Ethics: Issues and Cases*. Lee Wilkins and Philip Patterson (eds). Wm. C. Brown Co. Publishers: 1991.

16)"Legitimate Limits on Free Expression," *Ethics and Higher Education*. William W. May (ed.). Macmillan: 1990.

17)"Deception in Journalism," *Ethical Issues in the Professions*. Peter Windt and Leslie Francis (eds.). Prentice-Hall: 1989.

18)"Media and Persons with Disabilities: Ethical Considerations," *Reporting on Disability: Features and Issues*. Mary Johnson (ed.) U.S. Department of Education and Avocado Press, Louisville. 1989.

19)"Tales from the Darkside: The ethics of disaster coverage." *Bad Tidings: Communication and Catastrophe.* Lynne Walters, Lee Wilkins and Tim Walters (eds.). Lawrence Erlbaum Associates: 1989.

20)"Mass Media Ethics," *Mass Media and Society*, Alan Wells (ed.). D. C. Heath and Company: 1987.

21)"Teaching Reasoning," *There's a Gifted Child in Your Classroom.* Wayne County Intermediate School District: 1984.

PUBLICATIONS - Articles for the Trade Press

1) "Doing an Awful Lot That's Right," *Media Ethics*, Summer, 1998.

2) "Journalists' con games can backfire," *Montana Journalism Review*, Summer 1997

3) "Forget Compassion--give me news," *Montana Journalism Review*, Fall 1994.

4) "The Waco Task Force: There's still hope," *Quill Magazine* November/December, 1993

5) "A foundation for informed decision making," The FineLine Legacy," *FineLine*, Nov./Dec. 1991

6) "Plagiarism: It's not a black and white issue," *Quill Magazine*, November 1991

7) "Outing: When the Media Do It To You," *FineLine*, Oct. 1991

8) "A medical condition media-generated money can't cure: Maybe what seems so right is wrong," *FineLine*, Sept. 1991.

9) "Deception and Imagery." *NPPA Photojournalism Ethics Protocol.* July 1991

10)"Thou Shalt Not Trick Thy Source," *FineLine*, July/Aug. 1991

11)"When what's public should remain private," *FineLine*, June 1991

12) "Building barriers: The case against financial involvement," *FineLine*, May 1991

13)"When advocacy is okay: access is an acceptable journalist's cause," *FineLine*, April 1991

14) "Rallying 'round the flag: The press as U.S. propagandists," *FineLine*, March 1991.

15) "Fairness: a casualty of the anti-drug crusade," *FineLine*, Feb. 1991

16)"How now, sacred cow? United Way's favored treatment by media," *FineLine*, Jan. 1991

17)"The Year in Review: 1990's biggest ethical headaches and journalistic bloopers," *FineLine*, Nov./Dec. 1990

18)"As Lile Passes By: A journalist's role is watch and wait," *FineLine*, Oct. 1990

19)"Author! Author! Ethical dilemmas when reporters turn author," *FineLine*, Sept. 1990

20) "Foul Play: The media drive to score on the Isiah Thomas story," *FineLine*, Aug. 1990

21)"Family Feud: Handling conflicts between journalists and partners," *FineLine*, July 1990

22)"They Said It First: Is that reason for going with a story?" *FineLine*, June 1990

23)"Suffer the Children: Journalists are guilty of child misuse," *FineLine*, May 1990

24) "To name or not to name...that is the question," *FineLine*, April 1990

25)"In tomorrow's news...Ethics will be a story subject," *FineLine*, March 1990

26)"Make the choice: Good Samaritan or good reporter," *FineLine*, Feb. 1990

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27)"Ethics codes/written rules: the problem is the writing," *FineLine*, Jan. 1990

28)"What's news about the news media?" *FineLine*, Dec. 1989

29)"Doing your own ethics audit," *FineLine*, Nov. 1989

30)"How to handle suicide threats," *FineLine*, Oct. 1989

31)"Freedom of expression: Do journalists have a right?" *FineLine*, Sept. 1989

32)"Are we our brother's keeper? You bet we are!" *FineLine*, Aug. 1989

33)"Let's make a deal! The dangers of trading with sources," *FineLine*, July. 1989

34)"Anonymity for rape victims...should the rules change?" *FineLine*, June 1989

35)"Deciding which critically ill person gets coverage," *FineLine*, May 1989

36)"Making the call: from private to public," *FineLine*, April 1989

37)"AIDS and Public Disclosure," "The Scarlet Letter," *1988 APME Ethics Committee Report.*

38)"Identifying AIDS Victims: The Destruction of Dr. Huse," *Washington Journalism Review*, October 1988.

39)"Family Ties: Media coverage of victims' families during the TWA hostage-taking," occasional paper. *National Terrorism and the Media Project:* 1987.

40)"Editors learn the hard way on campuses," *1986-87 Journalism Ethics Report, Society of Professional Journalists.*

41)"Is journalism a profession? ,Yes, and no strings attached," *Freedom of Information, 1984-85 Report of the Society of Professional Journalists.*

42)"The consequences of deception: unwarranted use can damage public trust in journalists;" "Ends vs. means: comparing two cases of deceptive practices;" "Education: avoiding indoctrination through ethics instruction." 1984-85 *Journalism Ethics Report, Society of Professional Journalists.*

43) and Marty Linsky, "The Oliver Sipple Story: The questions it raises for the press," *Bulletin of the American Society of Newspaper Editors,* (653) 1982.

PUBLICATIONS - Articles for the Lay Press (op-ed pieces only)

1) Morality is More Than Getting Away With It. *Los Angeles Times* 8/9/98

2) The Clinton Show. *Seattle Post-Intelligencer.* 8/9/98

3) Lives Less Private. *Seattle Times/Post-Intelligencer.* 2/1/98

4) Investigators' deceptive methods do more harm than Clinton infidelity. *The Missoulian.* 1/26/98

5) Humanizing Abortion, *The Seattle Post-Intelligencer.* 10/15/97

6) Public Officials Tarred by Private Lives. *Newsday.* 5/31/95.

7) The Waco Disaster: Media Were Manipulated, *The Missoulian,* 4/25/93

8) Memo to the media: Tell me everything" *USA Today,* 1/27/92

9) Why name any victims? *The Philadelphia Inquirer,* 5/10/91

10)Reporting Rape Charges: Treating Victims as Victims,*The Baltimore Sun,* 4/28/91

11)The Pentagon presents the bloodless, nonviolent war, *The Philadelphia Inquirer,* 1/23/91

12)Reluctant Hero, *The St. Petersburg Times,* 3/26/89

13)Reporters And Plagiarism, *The (NH) Valley News,* 10/9/87

OTHER RELATED PROFESSIONAL EXPERIENCE

Director, *Practical Ethics Center, University of Montana.* Develop ethics programs for businesses and professional groups; provide faculty development for teachers of 42 free-standing ethics courses; develop topical programs for faculty, students and community members; manage manage office of 5; coordinate activities of graduate and undergraduate student interns and assistants; coach University Ethics Bowl team; design customized graduate degree and post-doc program; 8/96-present

Director, *Ethics Institute, Dartmouth College,* Managed grant and operating budget, coordinated faculty consortium, directed and participated in scholarly research, planned and taught faculty and student seminars in ethics, coordinated activities of staff members, research assistants, and visiting fellows. 8/88-12/92

Columnist, *FineLine.* Wrote "P.S./Elliott", monthly ethical analysis column for journalism ethics trade magazine. 3/89-12/91

Ethics Coach/General Assignment Reporter, *WCSH-TV,* Portland, ME. Developed and administered formal and informal newsroom ethics program; produced news packages for daily television news program. 7/88-8/88

Ethics Coach/General Assignment Reporter, *Louisville (KY) Courier-Journal.* 1/87-3/87

Ethics Coach/General Assignment Reporter, *The Philadelphia Inquirer.* 1/85-4/85

Research Assistant/Case Writer, *Kennedy School of Government, Harvard University:* Researched and wrote teaching cases in journalism ethics. 1/82-6/83

Editorial Board Member, *Harvard Educational Review:* Solicited, evaluated and edited manuscripts for publication. 9/82-6/83

Research Associate/Editor, *U.S. Department of Education:* Researched impact of federal funding on school districts, wrote report for $50,000 funded study. 1/82-6/83

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Appendix

AWARDS

Who's Who Among America's Teachers, 1996, 1997, 1998
Who's Who of American Women, 1996, 1997, 1998
Who's Who in the West, 1996, 1997, 1998
Who's Who in the World, 1994, 1995, 1996, 1997, 1998
World Who's Who of Women, 1993, 1994, 1995, 1996, 1997, 1998
International Authors and Writers Who's Who, 1995, 1996, 1997, 1998
Who's Who in The East, 1992
Honorable Mention, 1995 Grenzebach Awards, *The Ethics of Asking*
Silver Apple, "Documentary", National Educat. Film & Video Festival 1992
Silver Apple,"News/Reportage," National Educat.Film & Video Festival 1991
Bronze Plaque Award Winner, Columbus International Film Festival, 1990
Rockefeller Fellow in Professional Ethics, Dartmouth College, 1987-88
AEJMC Teaching Fellow, Summer 1986
Outstanding Young Women of America, 1983
Marion and Jasper Whiting Foundation Fellow, 1983-84
Harvard Educational Review, 1982-83
Mark DeWolf Howe Summer Research Grant (Harvard Law School), 1982
Wayne State University, Graduate Merit Scholarship, 1980-81
Institute for the Advancement of Phil. for Children Scholarship, 1979

ASSOCIATIONS

Association for Practical and Professional Ethics (Executive Board Member, elected)
American Philosophical Association
Association for Education in Journalism and Mass Communication
Society of Professional Journalists
Institute for Medicine and Humanities Executive Board Member
Citizen Review Board (appointed by District Court)
STAR (Support, Therapy, Assistance and Rehabilitation) Dog Services
Delta Society

Recent years' speaking engagements are available upon request.